

**POLICY  
610**

**EFFECTIVE  
DATE  
3-31-17**

# Eugene Police Department



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## Vehicle Tows and Inventories

### 610.1 PURPOSE AND SCOPE

The Eugene Police Department will impound vehicles for certain traffic offenses and under other specific conditions. Before the vehicle is towed, it will be inventoried. An inventory is a legitimate law enforcement activity that is not a search, but may result in the discovery of evidence. Vehicle inventories will be conducted prior to vehicle tows and impounds to protect the City from claims of loss and theft, the vehicle owner's property, and the tow company, public, and police employees from potential danger. This policy applies to all sworn law enforcement officers of this department.

The decision to impound a vehicle must first be governed by the, "Community caretaking," standard before statutory authority can be exercised. Under the, "Community caretaking," standard, vehicles may be impounded that jeopardize public safety and the efficient movement of vehicular traffic, not solely based on an offense committed by the operator or owner. Whether impoundment is warranted depends on the location of the vehicle and the officer's duty to prevent it from creating a hazard to other drivers or being a target for vandalism or theft. When a reasonable alternative is available vehicles will not be impounded except as prescribed in this policy.

### 610.2 IMPOUNDS FOR TRAFFIC OFFENSES

Under the authority of *ORS 809.720*, a police officer may at the time of a traffic stop, impound vehicles operated by persons they have probable cause to believe committed any of the following offenses:

- a. Driving Under the Influence of Intoxicants (*ORS 813.010*)
- b. Driving While Revoked or Driving While Suspended (Misdemeanor/Felony) (*ORS 811.182*)
- c. Driving While Suspended (Violation) (*ORS 811.175*)
- d. Operating Vehicle without Driving Privileges or Violate Restrictions (*ORS 807.010*)
- e. Driving Uninsured (*ORS 806.010*)

A vehicle may be impounded only if a citation is issued for one or more of the listed violations.

#### 610.2.1

Officers shall use discretion and good judgement in the enforcement of these laws and will follow the listed guidelines in the towing of vehicles under this authority:

- a. Vehicles may be impounded for the following offense:
  1. Driving Under the Influence of Intoxicants (DUII)
  2. Driving While Suspended (DWS)

3. No Driver's License
  4. No insurance pursuant to 806.010
- b. Vehicles will not normally be impounded for the following offenses:
1. No operator license (Due to expiration or possession).
  2. No operator license (Where another licensed driver is present and the driver or registered owner gives consent).
  3. Operating a vehicle in violation of operator license restrictions.
  4. Violations solely for ORS 806.011 (Insurance card requirement) or ORS 806.012 (Failure to carry insurance card).
- c. Vehicles will not be impounded under any of the following circumstances:
1. The vehicle is stopped on private property where the registered owner or operator is living or the property owner does not object to the vehicle being left on the property.
  2. The registered owner and/or passenger present in the vehicle at the time of the stop possesses a valid driver's license. An exception to this rule occurs if an officer determines that the vehicle and/or licensed driver are not properly insured under 806.010 or are unable to safely operate a motor vehicle.
- d. Only with supervisor approval, and under rare circumstances, will a vehicle be impounded for the following reasons:
1. When the vehicle can be legally parked at a time and place where the likelihood of it being subjected to vandalism and or theft is remote and traffic or public safety is not impeded.
  2. Incidents where a juvenile driver is operating a vehicle in violation of operator license provisions, without making reasonable efforts to contact a supervising adult who can respond and take possession of the vehicle.
  3. A request by another police agency.
- e. The fact that a driver is arrested will have no bearing on whether or not a vehicle is impounded, except for situations where the driver's inability to move the vehicle requires action in order to protect the vehicle in accordance with the "Community Caretaking" standard, or situations where the vehicle is a hazard.

### **610.3 IMPOUNDS FOR DUII**

To protect the community from the dangers of intoxicated drivers, officers should ordinarily impound motor vehicles where the driver is arrested or cited for driving under the influence of intoxicants unless one of the follow circumstances applies:

- a. Another licensed driver is present who is not intoxicated and who is authorized to operate the motor vehicle and the vehicle is legally operable.
- b. The motor vehicle is parked at or in front of the residence of the intoxicated driver or registered owner.
- c. The intoxicated driver is taken into custody on additional grounds which make the likelihood of release before sobering remote.

## **610.4 IMPOUNDS FOR PROHIBITED CAMPING**

Refer to *Policy 410 – Prohibited Camping* for guidance on impounds related to willful violators.

## **610.5 VEHICLE IMPOUNDS/TOWS NOT RELATED TO OFFENSES**

### **610.5.1 SAFEKEEPING TOWS**

When the operator of a vehicle is arrested, the vehicle may be towed if necessary for safekeeping, to prevent a safety hazard, or if it is not parked lawfully.

The vehicle should not be towed if:

- a. The owner is present or in contact with the officer or dispatch and he or she is capable of deciding the vehicle's disposition, **and**
- b. The vehicle can be safely secured and left legally parked at its present location.

### **610.5.2 VEHICLES IMPOUNDED AS EVIDENCE**

Only a supervisor may authorize a vehicle to be impounded as evidence. List the authorizing supervisor's name in the accompanying police report and on the impound form.

Impounds of vehicles as evidence should be conducted to preserve evidence and in accordance with statutory and case law. Officers should always consider a search warrant prior to impounding a vehicle as evidence.

Vehicles impounded as evidence will be sent to the Police Services Building at 125 N. Garfield.

Vehicles should be secured in the processing bay at 125 N. Garfield when:

- a. Securing the vehicle in the processing bay is authorized by the Forensic Evidence Unit (FEU) supervisor or designee
- b. Timely processing by the FEU personnel is needed, or
- c. The vehicle needs to be protected from the elements until that processing can occur, or
- d. The vehicle is critical to a major case investigation

Follow the submission directions posted on the pedestrian door of the processing bay when securing a vehicle in the processing bay.

Vehicles will be stored in the secure parking area at 125 N. Garfield

- e. Prior to storing the vehicle, officers shall contact an Evidence Control Unit (ECU) evidence specialist.
- f. If the submission occurs after hours, the ECU supervisor must be contacted as storage of the vehicle will necessitate the call out of an evidence specialist.

All vehicles stored at 125 N. Garfield shall be thoroughly photographed, and sealed with evidence tape. The vehicle should be left locked with the windows rolled up whenever possible.

Complete an Evidence/Property Report (EPR) form for the impounded vehicle:

- g. List the vehicle as a numbered item in addition to filling out the vehicle information at the top of the EPR.
- h. If the keys have been seized, place the keys in a tape sealed envelope. Initial and date the tape seal. The keys must be listed as an item on the report and submitted to an evidence locker at the ECU.
- i. The white copy of the EPR for vehicles not being processed shall be submitted to ECU for entry into the Evidence Tracking System. If the vehicle is secured in the evidence bay for processing, the white copy of the EPR will be submitted to the FEU supervisor's box in the lobby of the ECU.
- j. The pink copy of the Evidence/Property Report form must be placed on the front driver's seat so that the case number can be seen from outside the vehicle.
- k. Submit the canary copy of the Evidence/Property Report to EPD Records.

### **610.5.3 VEHICLES SEIZED FOR FORFEITURE**

Contact the Special Investigations Unit (SIU) sergeant upon determining a vehicle may be suitable for criminal forfeiture. If the SIU sergeant concurs that the vehicle should be impounded, handle the vehicle seized for forfeiture in the same manner as described in Section 610.2.2 VEHICLES IMPOUNDED AS EVIDENCE above, except that the vehicle does not need to be sealed with evidence tape.

### **610.5.4 HAZARDS**

- a. If a vehicle is a hazard, officers may tow the vehicle after citing it if it is in violation of the law. If the owner is present, the officer may move the vehicle to a safe place with their consent if it can be done safely.
- b. If a person is in a hazardous or unsafe situation, officers may transport the person to a safe location if no other reasonable option exists to assure their safety.

### **610.5.5 GENERAL TOWS**

- a. Private Tows/Arbitration of Towing disputes.

If there is no violation of law, an officer's only responsibility in civil disputes between citizens and a tow company is keeping the peace and ensure proper exchange of identifying information.

- b. Citizen Requests for Tows – Non-Preference
  - 1. Officers may arrange tows for vehicle owners as a public service.
  - 2. A tow request can only be made for the registered owner, or person authorized by the owner.
  - 3. Officers may not recommend a specific tow company.
  - 4. If the person expresses no preference as to the towing company, tell that to the dispatcher, who will arrange the tow per the towing contract.

- c. Citizen Requests for Tows – Preference
 

If the owner prefers a specific tow company in the area, grant the request if the response time is reasonable (20 minutes should generally be considered a reasonable time limit depending on circumstances) considering any hazard presented by the vehicle.

- d. Tows from Private Property
  1. Officers will not order such tows.
  2. Officers are only there to keep the peace.

## **610.6 VEHICLE INVENTORY**

Vehicle inventories are conducted in a systematic and non-discretionary manner by officers to prevent false or fictitious claims regarding lost or stolen property. This policy is also meant to protect the department from negligence claims and other tort claims arising from an individual's contact with potentially harmful items or material either during the inventory or after the vehicle has been released to a third party.

Officers are directed to open all closed containers that are uniquely designed or objectively likely to contain any of the items listed below. The impounding officers is forbidden from opening closed containers that are not uniquely designed or objectively likely to contain any of the listed items.

Areas officers must search are:

- a. Glove box and consoles
- b. Beneath all seats
- c. Interior of the trunk
- d. Any external closed compartment or container (such as a roof rack or truck box)
- e. Any container that is uniquely designed or objectively likely to contain items (a)-(c) below.

Officers will inventory the vehicle for the following items for the reasons stated below:

- f. **Firearms and other valuable items:** Firearms are often valuable and valuable items are often subject of claims of lost or stolen property. In order to protect the City of Eugene and other government agencies from false claims of lost or stolen property, any valuable item must be listed by description as accurately as possible during the inventory.
- g. **Hazardous materials or chemicals:** The United States Environmental Protection Agency classifies hazardous waste under *CFR Title 40 (C)§ 261*. Materials classified as "potentially harmful" due to having characteristics of ignitability, corrosiveness, reactivity, or toxicity are dangerous. In an effort to protect tow companies from injury or liability, any substance with properties that make it dangerous or potentially harmful to human health or the environment may not be impounded with the vehicle.
- h. **Prescription drugs:** Pharmaceutical/prescription drugs are often subject of claims of lost or stolen property. In order to protect the Eugene Police Department and other government agencies from false claims of lost or stolen property, any pharmaceutical/prescription drug item must be listed by description as accurately as possible during the inventory.

An inventory is a non-investigatory procedure. During the course of inventorying personal belongings, if evidence of a crime is in plain view it may be seized and lodged with the Property Control Unit as evidence. If however, officers develop probable cause to believe that evidence of a crime will be found within a closed container that is not open, and not subject to opening because it is not uniquely designed or objectively likely to contain any of the below listed items (f) through (h), it will be necessary to seize the closed container and seek a search warrant prior to opening the container.

Once the vehicle has been inventoried and any property that needs to be removed from the vehicle has been removed, the tow may be ordered through dispatch.

When applicable, officers should provide reasonable assistance to occupants of the vehicle in obtaining alternative transportation; ensuring that they are not left at a location or in a situation which might reasonably be considered hazardous.

### **610.7 INSTRUCTIONS FOR EVIDENCE OR CONTRABAND**

Any evidence seized from a vehicle inventory should be seized and lodged appropriately at the Evidence Control Unit. The evidence or contraband should be logged on an Evidence/Property form and a receipt copy made available to the driver, suspect, or other responsible person from whom the property is being seized.

- a. **Firearms and other valuable items:** List brand names, model numbers and serial numbers on the property receipt form, if applicable.
- b. **Hazardous materials or chemicals:** Seize and dispose of according to *Policy 804 Evidence and Property Handling*. If probable cause exists to believe that a container contains a hazardous material or device, adhere to the following:
  1. If the item is unlawful to possess, the container should be opened only based on independent legal authority to search (e.g., consent, search warrant), unless exigent circumstances require opening the container immediately to mitigate the hazard.
  2. In other cases, the container may be opened to assess and mitigate (if necessary) the hazard presented by the item.
  3. Officers should always act with due caution and evaluate the information they have about the hazardous substance(s) to determine whether it is safe to open the container, or whether trained personnel (e.g., EDU, HAZMAT) should be requested to do so.
- c. **Prescription drugs:** List brand names, generic names and quantity on the property receipt form, if applicable. Due to the value of some prescription medications, care should be taken to note the prescription drug by description as accurately as possible during the inventory. Medications should only be seized if the officer cannot determine with reasonable certainty that the medications are legal to possess and belong to a driver/occupant of the vehicle.

### **610.8 REPORTING IMPOUNDS**

A supervisor should be notified if any unusual circumstances are involved with the intended impound, or if there is a possibility that the impound might create unusual difficulties for the vehicle's driver or owner.

Complete the Impound Report or Evidence/Property Report form. Give a copy of the Impound Report or Evidence/Property Report form to the registered owner, if present, or to the driver, along with a copy of the release instructions. Advise the registered owner, if present, or the driver where the vehicle is being taken. Indicate in the report to whom the copy of the form was given.

Complete and submit a police report using the Impound Report as the face page. Due to timing of notice requirements, this report may not be held.

A case number and incident report is required for all impounds.

### **610.9 IMPOUND HEARINGS**

If a hearing to contest the impoundment is scheduled, the impound officer must appear and present evidence supporting the impoundment. An affidavit in lieu of appearance may only be used if the scheduled hearing conflicts with previously approved time off or training and supervisory approval has been obtained.

If the impound officer has previously scheduled and approved training or time off that is to occur within the next 30 days, he or she must complete an affidavit through the court to which the operator was cited, have it notarized, and attach it to the Impound Report. The affidavit must contain all of the information needed by the court to establish that the tow was proper, including the reason for the stop, the violation for which the vehicle is being impounded, how the violation was established, date, time, location, and venue.

**PETE KERNS**  
Chief of Police