

## 19-002 Impounded and Stored Vehicles

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### Los Angeles County Sheriff's Department FIELD OPERATIONS DIRECTIVE

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## Impounded and Stored Vehicles

### INTRODUCTION

Deputies have the authority and responsibility to keep unlicensed drivers, or drivers with a suspended or revoked license, off the road, which does not always require the vehicle be towed. The Ninth Circuit Court of Appeals (*Miranda v. City of Cornelius*, 429 F. 3d 858, 2005) has held that the seizure of a vehicle, even when authorized by state law, must be reasonable under the Fourth Amendment. The California Vehicle Code (CVC) section 14602.6(a)(1) allows a peace officer to impound a violator's vehicle (commonly known as a "30-day impound") at the owner's expense if certain conditions are met. In other situations, CVC section 22651(p) allows a peace officer to temporarily store the vehicle at the owner's expense. These sections can be utilized to enforce driving laws. Public safety should always be the main goal.

#### Impound vs. Stored

Impound of a vehicle from public or private property:

When a vehicle is being held for an investigation (evidence), for the purpose of a forfeiture, or until a specific CVC violation is corrected, an impound authority or "hold" would apply. The vehicle may only be released with the authorization of the impounding agency, thereby removing the hold.

**Note:** An impound or "hold" can be as short as one day or extended to 30 days or longer. It is irrelevant whether the registered owner (R/O) or the Department is responsible for storage fees when determining a vehicle removal as an impound or a storage.

Stored vehicles removed from public or private property:

Stored vehicles do not have holds. A stored vehicle has no evidentiary value. When a vehicle is stored, the vehicle may be released at any time to the R/O, or authorized agent, with proper verbal or written designation, provided that any applicable administrative city or county fees are paid.

#### Community Caretaker Doctrine

Deputies shall be guided by the Community Caretaker Doctrine when deciding whether to impound or store a vehicle. Courts have ruled this doctrine allows deputies to impound or store vehicles when doing so serves as a community caretaking function, such as:

- When the vehicle is impeding traffic or jeopardizing public safety and convenience, such as when a vehicle is disabled as a result of a traffic collision;
- When the vehicle is blocking a driveway or crosswalk, or otherwise preventing the efficient movement of traffic (impeding traffic);
- When the location of the stopped vehicle may create a public safety hazard;
- When the location of the vehicle, if left at the location, may make it a target for vandalism or theft; or
- To prevent the immediate and continued unlawful operation of the vehicle (i.e. a licensed driver not immediately available).

The totality of circumstances, including the factors listed above, should be considered when deciding whether impoundment or storage is reasonable. The decision to impound or store any vehicle must be reasonable and in furtherance of public benefit and public safety. Relevant factors considered shall be documented on an Incident Report (SH-R-49), Statement of Facts (SH-CR-627), or on the Vehicle Report (CHP-180) form.

#### Disposition of Vehicle When the Driver is in Custody

If the driver of a vehicle is taken into custody for booking, and he/she is the R/O, the vehicle shall either be left legally parked at the location or towed (stored or impounded). Department members are not required to wait to release a vehicle to another driver, but can do so if another driver is present such as a licensed passenger. Once a vehicle is towed (stored) and the R/O would like to release his/her vehicle to a licensed driver, written authorization shall be obtained from the R/O per MPP 5-01/090.05.

If the driver is arrested and not the R/O, the vehicle shall be stored or impounded. The driver does not have the authority to provide consent for another person to take the vehicle or to request to leave the vehicle legally parked. Any department member who deviates from this policy shall obtain approval from the field supervisor prior to doing so and shall document the circumstances in their call clearance.

#### Definition of License Status

The Department of Motor Vehicles (DMV) driver license history (license status) indicates whether a license is valid, expired, suspended, or revoked.

When detaining a driver who has never been issued a driver license (DMV return shows “none issued” or “no record on file”), the following exceptions shall be considered prior to impounding it per 14602.6(a)(1) CVC:

- 12501 CVC - A federal/military employee driving a federal vehicle.
- 12502 CVC - A nonresident over the age of 18 having a valid driver license issued by a foreign jurisdiction (including another state), where they reside.
- 12503 CVC - An unlicensed nonresident; a nonresident over the age of 18 whose home state or country does not require a driver license is allowed to drive their foreign vehicle for up to 30 days.
- 12504 CVC - A nonresident minor over the age of 16 and under the age of 18 years may operate a motor vehicle up to 10 days after moving to this state, providing that he or she has a valid driver license in their immediate possession that was issued by a foreign jurisdiction and proof of financial responsibility.
- 12505 CVC - Determination of residency; this is the state where a driver has his or her true, fixed, permanent home and principal residence. Factors to determine this include acts or occurrences that

indicate their presence in this state is more than temporary or transient.

- 12518 CVC - A nonresident under the age of 18 who is an active member of the armed forces may operate a vehicle without a driver license for 60 days.

If any of the above exceptions apply, the vehicle **shall not be impounded**; however, may be **stored** as necessary (e.g. after a traffic collision, or driver is arrested, etc.).

### Withheld Status

The DMV can place a “hold” or condition on an upcoming renewal of a driver license, such as mandating a medical examination certificate or another legal requirement. This status is an administrative “hold” applied to a license by the DMV. If a driver license inquiry shows “valid/withheld,” the license is **valid**. If a driver license inquiry shows only “withheld,” or “withheld/expired” the driver’s license is **not valid**.

In the event a driver is observed operating a vehicle with this type of violation, the driver may be cited as an unlicensed driver [12500(a) CVC]. The removal of the vehicle in this case should be stored under the authority of section 22651(p) CVC, unless a licensed driver is available to take possession of the vehicle with the R/O’s permission.

### Impound

The reason for which a driver license is suspended will dictate whether the driver’s vehicle can be impounded for 30-days or stored. Refer to the exceptions of a 30-day impound in the section entitled “STORED.”

Subsections of 14602.6 CVC (30-day holds) apply when deputies have reasonable suspicion to stop a vehicle, and determine that the driver was:

- Driving a vehicle while their driving privilege is suspended or revoked;
- Driving a vehicle while his or her driving privilege is restricted due to a conviction of driving under the influence (DUI), and the vehicle is not equipped with a required, functioning, certified ignition interlock device (IID); or
- Driving a vehicle without ever having been issued a valid driver license.

Sworn personnel may arrest the driver for a licensing violation above and impound the vehicle pursuant to 14602.6(a)(1) CVC. A written Notice to Appear (citation) will satisfy the arrest requirement.

Driving on a suspended or revoked license is a crime that usually requires a peace officer to observe the suspect operating the vehicle. If a driver was operating a vehicle on a suspended license, and deputies have reason to believe that occurred, but did not observe the driving, the deputy may still be able to charge the driver with section 14601.1(a) CVC. For example, if a driver is seen standing away from his/her vehicle at the scene of a traffic collision. The basis for the arrest can be made based on the driver’s admission, video, or witness statements gathered by the deputy. Violations of this nature can be indicated by checking the box on the citation marked “Violations not committed in my presence, declared on information and belief.” A 30-day impound authority may apply to the removal of the vehicle in both cases.

### Stored

Storage authority of a vehicle as authorized pursuant to 22651(p) CVC applies to the following scenarios

where the driver is operating a certain type of vehicle, and his/her license is suspended due to the following reasons:

- Rental vehicles, as they shall be stored, not impounded;
- If the driver has a valid license for another class of vehicle;
- If a driver license is suspended due to child support obligations (section 17520 of the Family Code);
- If a driver license is suspended due to failure to make a collision report [16004(a) CVC];
- If a driver license was suspended due to no insurance/financial responsibility at a collision (16070 CVC);
- If a driver license is suspended due to a disability (13801 CVC);
- If a driver license is suspended due to cancellation of insurance/financial responsibility (16484 CVC);
- If a driver license is suspended due to negligent operator (12810.5 CVC); or
- If the driver has an expired license whether or not it is an in-state, out-of-state, or out-of-country license.

#### Driver Incapacitated While Unlicensed

In cases where the driver is incapacitated due to illness or injury, such as a result of a traffic collision, the handling deputy need not cite or arrest the driver for licensing violations for a 30-day impound authority to be valid. In the event the driver is unable to sign a promise to appear citation for a licensing violation (misdemeanor) due to illness or injury, the handling deputy may store the vehicle using the authority of 22651(g) CVC to remove it when necessary.

#### Verbal or Personal Service Needed

When the driver's history shows "suspended or revoked" and "verbal or personal service needed," complete DMV form DL-310, "Verbal Notice by Peace Officer, DMV or Court Employee," and give the driver a copy of the form. In these cases, a driver may be cited for driving while unlicensed [12500(a) CVC], or not driving on a suspended license [14601.1(a) CVC], when he/she has **no knowledge** of the suspension or revocation, or there was no valid proof of service.

The standard of proof for valid service on an impound of a vehicle [e.g. 14602.6(a)(1) CVC] is different than the standard of proof for making an arrest for driving on a suspended or revoked license [14601.1(a) CVC]. While the DMV recognizes service codes "A, B, D, J, and M" as sufficient cause the R/O received notice of the license suspension for purposes of impounding the vehicle, the arresting deputy shall determine if the driver had knowledge of his or her suspension through statements, or by relying on DMV service "J" or "M" for a 14601.1(a) CVC arrest. If neither a statement, nor proof of service can determine the driver's knowledge of the suspension, the handling deputy shall issue a citation for a violation of unlicensed driver [12500(a) CVC] in lieu of driving on a suspended license [14601.1(a) CVC]. The driver can also be served with a notice of license suspension via a DMV "Verbal Notice By Peace Officer," form DL-310.

## **PROCEDURE**

### Stypmann Hearing vs Brewster Vehicle Release Review for the Watch Commander

**Stypmann Hearing** - Pursuant to 22852 CVC and *Stypmann v. Co. of San Francisco*, 557 F.2d 1338 (9th Cir. 1977), a Stypmann Hearing is to determine if the vehicle was lawfully stored or impounded at the point of

initial seizure. This hearing is conducted by the watch commander at the R/O's request pursuant to MPP 5-01/080.00 Notification and Hearing Procedure for Stored/Impounded Vehicles. If the R/O prevails at the Stypmann Hearing, the station/unit shall pay all accrued storage and tow fees from the time of seizure until the date of the release of the vehicle.

**Brewster Vehicle Release Review** - This administrative review is separate from a Stypmann Hearing. Under *Brewster v. Beck*, 859 F.3d 1194 (2017), the continued seizure of a vehicle after the R/O can demonstrate that he or she can legally possess the vehicle is considered unconstitutional. A vehicle may be lawfully impounded under an applicable 30-day authority, such as 14602.6(a)(1) CVC, prior to the outcome of this review.

In order to release the vehicle to the R/O before 30 days have elapsed, an administrative review shall be conducted at the request of the R/O to determine if the R/O can legally possess the vehicle. The watch commander shall conduct this vehicle release review in a reasonable time period after the R/O appears at the station/unit in person. The vehicle shall be released to the R/O immediately if **all** of the following conditions are met:

- The R/O or legal owner provides proof of ownership and a valid driver license **or** designates this possession (through consent), in person, to an agent who is in possession of a valid driver license; **and**
- The vehicle has current registration; **and**
- The R/O pays the vehicle release administrative fee, if applicable. Accrued fees for the impound/storage will be collected by the tow company/garage at the time they release the vehicle.

**NOTE:** Valid registration is not required to release the vehicle if requested by a legal owner (L/O) pursuant to 14602.6(f)(1) CVC; however, sworn station personnel may issue a citation for expired registration at their discretion, pursuant to 22850.3(a) CVC.

In the event the L/O or their designee requests the release of a vehicle, procedures detailed in 14602.6(f) CVC shall be followed which require the L/O to provide a letter of assignment as described in section 7500.1(b) of the Business and Professions Code (BPC).

Discretion shall be exercised for vehicle release reviews involving statutory 5, 15, or 30-day impound authorities. Vehicle release reviews involving impounds based on violations of driving restrictions for reckless driving (23109.2 CVC), prior DUI offenses (13352.1-13353.2 CVC), habitual traffic offenders (14601.3 CVC), and/or required IID equipment (23575 CVC) may be denied an early release based on a likelihood the R/O will continue driving the vehicle in violation of their restrictions.

Denial of an early release may be justified in many scenarios. For example, when determining whether to release a vehicle not equipped with a required IID, the R/O would need to show proof of their intention to install an IID in order for the watch commander to grant an early release of the vehicle. Absent the IID, it is likely that the R/O would continue driving in violation of their restrictions.

The watch commander shall document the results of this vehicle release review in the watch commander log to include the vehicle information, R/O or L/O identification, Uniform Report Number (URN), and name of the licensed person assigned possession of the vehicle.

## **ADDITIONAL INFORMATION FOR DOCUMENTATION**

Ensure the following is included when documenting licensing violations on the appropriate forms.

Indicate in the narrative of the Statement of Facts form (SH-CR-627):

- If the driver received permission from the R/O to drive the vehicle; and/or
- If the R/O knew the driver was unlicensed; and/or
- If the driver knew he/she did not have a license or if it was suspended or revoked.

Ensure the narrative articulates and justifies the seizure, including:

- Any additional information the deputy finds pertinent, such as prior contacts, a hazardous driving pattern, other related crimes; and/or
- The relationship between the R/O and the driver.

The name and driver license number of the individual whom the vehicle was released to shall be written on the deputy's copy of the citation (pink station copy) or on the Statement of Facts form.

If there are no identifiable parts (VIN or license plate) to work with on a vehicle that is illegally parked and is being impounded, the "VIN" section on the CHP-180 is filled in with the URN number. This typically applies to "pocket bikes," or homemade vehicles or trailers. It also applies to a "hull" of a vehicle (stripped, burned, or unidentifiable vehicle).

**Attachment** – Reference Chart for Vehicle Removal Enforcement; the attached table indicates the most appropriate impound or storage authority, which would apply under the circumstances described. [Click here for attachment.](#)

## **REFERENCES**

California Commission on Peace Officer's Standards and Training – Learning Domain 28, Traffic Enforcement, Version 6.1.

[https://dev.hancockcollege.edu/academic\\_departments/public\\_safety/law-enforcement/LD\\_28\\_V-6.1.pdf](https://dev.hancockcollege.edu/academic_departments/public_safety/law-enforcement/LD_28_V-6.1.pdf)

Case Law Opinion of Brewster v. Beck (2017), US Court of Appeals for the 9th Circuit, Docket No. 15-55479, Filed June 21, 2017.

<http://cdn.ca9.uscourts.gov/datastore/opinions/2017/06/21/15-55479.pdf>

Manual of Policy and Procedures MPP 5-01/080.00 Notification and Hearing Procedure for Stored or Impounded Vehicles.

Manual of Policy and Procedures MPP 5-01/080.10 Early Release of Impounded Vehicles.

Manual of Policy and Procedures MPP 5-01/090.00 Release of Stored and Impounded Vehicles.

Manual of Policy and Procedures MPP 5-01/090.10 Vehicle Release Administrative Fee.

## Field Operations Directives (FODs) : 19-002 Impounded and Stored Vehicles

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Manual of Policy and Procedures MPP 5 01/090.05 Owner In Custody of Sheriff

Newsletter 07-10 Stypmann Hearings and Release of Stored or Impounded Vehicles.

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