



**DEPARTMENT OF PUBLIC SAFETY
POLICIES & PROCEDURES**



POLICY NUMBER	
OPR: 36	
EFFECTIVE DATE: 03/12/2012	ORIGINAL ISSUED ON: 03/08/2007
REVISION NO: 2	

SUBJECT: VEHICLE TOWING AND INVENTORY

1.0 PURPOSE

The purpose of this policy is to establish a requirement for the inventory, towing and storage of non-departmental vehicles that come under the control of the Department of Public Safety and to provide a set of guidelines to be followed in each case when this occurs.

2.0 POLICY

It is the policy of the Department of Public Safety to conduct an inventory on all vehicles and associated personal property that comes under departmental custody following an arrest, crash investigation, or other authorized police action.

3.0 APPLICABILITY

This policy applies to all commissioned personnel of the Department of Public Safety.

4.0 REFERENCES

- A. Article II, Section 10 – New Mexico Constitution**
- B. CALEA Chapter 61 – Traffic**
- C. CALEA Chapter 84 – Property and Evidence Control**

5.0 DEFINITIONS

- A. DPS** – Department of Public Safety.
- B. OWNER’S/DRIVER’S REQUEST** – A request by the owner or driver of a vehicle that a specific towing service tow that vehicle.
- C. PRC** – Public Regulation Commission.
- D. RESPONSIBLE THIRD PARTY** – A person capable of safeguarding the vehicle and its contents, and in cases where it is to be moved, sober and licensed to drive that type of vehicle. Vehicles considered by the officer requesting removal as unsafe for highway travel will not be released to a third party for use on a public roadway prior to being made safe.
- E. VEHICLE INVENTORY** – An identification and accounting of vehicles, vehicle components and personal property attached to, or within the vehicle. The purpose of the inventory is to insure reasonable efforts are made to safeguard this property, to minimize claims against the department, and to protect, from certain hazards, the facility and personnel to whom the responsibility for transporting and storing this property is delegated.

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F. DEPARTMENTAL CUSTODY – Any time that a vehicle comes under the control of an officer and the decision to impound the vehicle is made. This does not include situations where the vehicle is released to a responsible third party or when it is towed at a citizen's request.

6.0 PROCEDURE

A. An inventory shall be conducted on all vehicles and associated personal property that comes under departmental control following an arrest, crash investigation, or other authorized police action. This does not include citizen requests for towing services.

B. Officers have the option not to impound a vehicle when there is a reasonable alternative.

1. This includes the release of the vehicle to a responsible third party who can arrive on scene in a reasonable amount of time as determined by the officer requesting the vehicle be towed. When releasing a vehicle at the scene, only the registered owner may release it to a responsible third party.
2. The release of the vehicle or its contents to a responsible third party will require the consent of the person receiving the vehicle or its contents and the owner's.
3. When the driver of the vehicle is not the registered owner, the vehicle may not be released to a third party, unless the registered owner is present. Otherwise, the vehicle will be impounded.
4. The option of releasing a vehicle to a responsible third party does not preclude the officer's authority to impound the vehicle. However, the officer's actions should be reasonable under the circumstances.

C. In every instance, the officer shall complete the Towing Authorization Form and have the appropriate parties sign the form, if possible.

1. When releasing the vehicle to a Towing Company the officer shall complete all portions of the form, except the "Owner, Agent or Third Party Release" section. That section shall be completed by the Towing Company when they release the vehicle.
2. When releasing the vehicle to a responsible third party the officer shall check the box labeled "Released at scene" under the "Inventory" section and complete the "Owner, Agent or Third Party Release" portion of the form themselves.

D. General Guidelines

1. No vehicle shall be towed unless there is a legitimate public safety justification for the vehicle's removal from its location.
2. Under no circumstance will the authority to tow vehicles be used as a punishment of the driver, owner or any member of the public associated with a vehicle being removed.
3. When towing a vehicle it is the requesting officer's responsibility to inform dispatch of the number and type of tow trucks needed.
4. When an officer arrives on scene and requests a tow truck:

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- a. Dispatch shall request a license plate for the vehicle in question and run same through NCIC/NMLETS.
 - b. The next tow truck on rotation shall be assigned to that particular vehicle unless an owner's/driver's request has been made that can be honored by the officer. If a second tow truck is requested by the officer, the same criteria will be followed.
 - c. The officer will not be told what tow truck is next on rotation and the officer will not request that information. This will help eliminate favoritism for certain companies.
 - d. A tow truck may be requested out of rotation if it is determined by a supervisor that it is in the best interest of the public to request a closer company to clear an immediate hazard or obstacle.
5. When several tow trucks respond, the requesting officer has the responsibility of assigning which tow truck takes which vehicle and in what order each vehicle is removed.
 6. When towing a vehicle it is the requesting officer's responsibility to ensure that all occupants, not taken into custody, are taken to a secure location where they can safely make arrangements to reach their final destination. It is also the responsibility of the requesting officer to make reasonable attempts to ensure occupants have the means to make arrangements for travel. At the very least, arrangements should be made to transport occupants to the nearest town.
 7. When towing a vehicle it is the requesting officer's responsibility to ensure that any animals in the vehicle or trailers are taken to a place where they can be cared for.
 8. Officers shall list the driver and registered owner's names and addresses, if available, on the Towing Authorization Form.
 9. Officers shall describe the vehicle's condition and any damage that is readily apparent in as much detail as the circumstances will allow and document it on the Towing Authorization Form.
 10. Officers shall describe prescription medication located in vehicle and ensure medicine claimed as, owned by and essential to the occupant or detainees, is removed and given to them.
 11. Officers shall list any extra equipment and modifications on the vehicle.
 12. Officers shall allow the vehicle keys to remain with the vehicle and allow the driver/owner to retain all other keys in his/her possession, e.g., house keys, business keys, post offices keys, etc.
 13. Officers shall state whether a "hold" is being placed on the vehicle and the reason for the "hold", e.g., proof of ownership, pending investigation, etc. Officers shall also list specifically under what conditions it can be released. "Holds" can only be placed on vehicles that are of evidentiary value, e.g. criminal investigations, vehicular homicides, narcotics cases, fictitious VINs, etc. All subsequent actions shall be done in accordance with New Mexico search and seizure laws. This includes obtaining a search warrant if neither consent nor exigent circumstances are present.
 - a. A vehicle being seized for the purposes of evidence processing and/or forfeiture shall be stored at a DPS facility immediately upon the seizure. Access to the vehicle shall be restricted to only authorized personnel. Refer to department policy *OPR: 17 Evidence/Property Handling*.

Clarification
Added

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- b. The seizing officer/agent may also utilize other law enforcement agencies secured facilities upon proper authorization from that law enforcement entity and approval from the officer's/agent's supervisor.
 - c. In the event a secured law enforcement facility is not available for storage of a seized vehicle, the seizing officer/agent may use a commercial storage facility. The "hold" shall be no longer than 72 hours, unless otherwise authorized by the district/bureau commander.
 - d. Vehicles towed on the authority of a DPS Commissioned Officer **that hold no evidentiary value** shall be towed to a commercial storage facility and dealt with according to PRC Rules and Regulations.
 - e. A hold may not be placed on a vehicle to compel suspects charged with misdemeanors to turn themselves in for arrests or interviews.
 - f. It is the responsibility of the officer requesting the vehicle be towed and held to promptly release the hold and notify the owners of the release. Officers shall document this notification.
14. List all personal property in as much detail as is reasonably possible under the circumstances.
- a. Individually list all property on or in the vehicle that has an apparent value of at least \$25.00 per item.
 - b. Categorize groups of items, if necessary, in order to facilitate the accounting of property (i.e. "suitcase with numerous clothing articles", "case with approximately 30 cassette tapes, CD or DVD," etc.).
 - c. Open and examine any closed or locked trunk, glove box, or containers located anywhere in vehicle in order to list all of the contents within the closed or locked area and remove any hazardous items that may pose a danger to people or property. If it is determined that it is not feasible to open a locked or otherwise inaccessible area, state that fact on the inventory sheet.
 - d. List any immediate dispositions of property that do not include a release to the tow truck operator, e.g., released to the driver's spouse or designee, held for safekeeping, retained by the driver, held as evidence, etc.
 - e. Avoid retaining personal property, if possible. Secure valuables in the trunk whenever it is feasible to do so.
 - f. Large cargos may be compared to a bill of lading, etc. and estimated. It is not necessary to account for such property in any precise number, though reasonable attempts should be made, if possible, to safeguard the property until the owner or a representative can take possession.
 - g. Timely follow-up inventories are appropriate in those cases where the circumstances might not allow for an immediate, detailed accounting of the vehicle and property.
 - h. The officer requesting a vehicle be towed shall sign the inventory form when it is completed and obtain the signature of the tow truck operator driver/owner, and the third party if they are taking possession of the vehicle and or property.
 - i. The original of the form shall be retained by the department and a copy shall be provided to the tow truck operator.

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- j. The completed inventory form shall be given to the district secretary who shall ensure that a file is maintained on all vehicle inventory documents.

E. Protocol for Assigning a Towing Service on a Rotation Log

1. Any towing service willing and capable of providing 24 hour service and following PRC regulations is authorized to be placed on the rotation log.
2. Towing services are unregulated but when towing for or at the request of DPS, through our rotation, they must abide by PRC rules and charge PRC tariff rates.
3. It is the district commander's responsibility to confirm that the towing service has complied with PRC regulation as to storage facilities and financial responsibility prior to placing them on the rotation logs.
4. Once on the rotation the towing services will be called sequentially.
5. If a tow truck fails to arrive on scene in a timely manner as determined by the officer on scene or cannot be contacted or refuses the call, the next tow truck on rotation will be called. The towing service that failed to respond will be put back on the rotation at the bottom and have to work its way back up to the top.
6. If through no fault of the towing service, a tow truck is canceled, it will be placed back on top of the rotation log.
7. Owner's requests do not affect the rotation log but must be documented by dispatch.
8. A towing service may be assigned a geographic area of operations where all towing calls are assigned to that service. This may only be approved by the district commander and then only when no other service is willing to handle calls for service in the area on a 24 hour basis.

F. Towing Service Rotation Suspension and Permanent Removal.

1. A towing service does not have a property right in being on the rotation and serves the public at the discretion of the district commander. A towing service may be removed from the rotation by the district commander for any of the following reasons
 - a. Towing service personnel do not respond within a timely manner.
 - b. Towing service personnel not answering phone requests from dispatch.
 - c. Towing service driver shows up on scene intoxicated or on drugs.
 - d. Towing service driver shows up on scene and refuses call.
 - e. Towing service equipment unsafe and/or inoperable.
 - f. Excessive complaints of overcharging the public.
 - g. Not abiding by PRC tariff.
 - h. Arguing at scenes or causing disruption.
 - i. An inability to account for vehicles, accessories or contents in the vehicle or on the Towing Authorization Form.
 - j. When removal is determined by the District Commander to be in the best interest of the public.

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2. Results:

First Offense: District Commander meets with towing service owners discusses problem(s) and reason(s) for possible removal. Agreement/resolution must be reached.

Second Offense: Towing service removed from rotation log for three months.

Third Offense: Towing service removed from rotation log for six months.

Fourth Offense: Towing service removed indefinitely from rotation log.

NOTE: REMOVAL IS AT THE DISTRICT COMMANDER'S DISCRETION. A towing service may be removed permanently or suspended on the first offense if it is deemed serious enough to warrant a more severe sanction.

3. Tow Logs

- a. Some towing services are independently owned and others may be owned by the same company. These towing services should be identified to avoid placing a company more than once on the rotation log. The towing services belonging to the same company should be appropriately placed on the rotation log so that it is fair to all the towing services on the rotation log.

G. Towing Vehicles

1. Owner's request

- a. A driver or owner at the scene may request a tow truck of his/her choice provided that towing service can respond promptly. The officer requesting the tow truck shall honor such a request provided it does not hinder investigation or traffic flow. This shall be noted on the Towing Authorization Form and does not affect the responding towing service's place on the rotation log.

2. Towing vehicles from public property or public roadways.

- a. The New Mexico Department of Transportation or any DPS officer may authorize the towing of vehicles adjacent to public roadways which may cause a hazard to the motoring public.
- b. An officer may authorize the towing of vehicles on public roadways, which are abandoned and have been vandalized or burglarized, at which time an offense incident report shall be initiated.
- c. Vehicles that have been involved in a crash and cannot be safely driven from the scene shall be towed from the scene to prevent a public safety hazard and safeguard the property.
- d. Vehicles operated on public highways with expired registrations, which are required to be registered under New Mexico law, may be towed by any officer. However, license plates shall not be removed/seized from the vehicle for this reason.

3. Towing vehicles from private property.

- a. When the driver is arrested, the officer shall inventory the vehicle if it is being towed from the scene.
- b. Officers shall not tow vehicles from private property at the property owners' request due to them being abandoned.

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- c. Officers may tow vehicles from private property, while actively investigating a crime and it has been determined that the vehicle is evidence of a crime. Vehicles towed under these circumstances must be done in accordance with search and seizure laws. Officers should consult with their supervisor and the local District Attorney's office to determine the best course of action in these circumstances.
4. Searching towed vehicles.
- a. Officers shall follow procedures pertaining to evidence protocol, regarding vehicles towed to a district office or lot at Headquarters in Santa Fe. Refer to department policy *OPR: 17 Evidence and Property Handling*.
 - b. The costs of the towing of vehicles to a DPS facility at the request of an officer is to be paid for by service requisition or purchase order, if applicable.
- H. Officers will not be employed by, or receive any compensation from, any towing service.
- I. Gifts, gratuities or favoritism from, or towards, individual towing service companies will not be tolerated; violation of this may result in disciplinary action.

7.0 ATTACHMENTS

A. TOWING AUTHORIZATION FORM

8.0 APPROVAL

APPROVED BY: _____ s/ Gorden E. Eden Jr. _____ DATE: _____ March 12, 2012 _____
DPS Cabinet Secretary