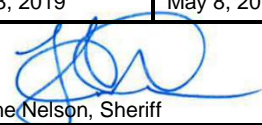




# DESCHUTES COUNTY SHERIFF'S OFFICE

Policy Title: <b>Motor Vehicle Tows, Inventories, Impounds and Releases</b>	Effective Date: June 28, 2016	Policy Number: <b>5.14</b>	
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Attachments:	 L. Shane Nelson, Sheriff		

## I. PURPOSE

The purpose of this policy is to provide deputies with guidelines for determining when and how a motor vehicle should be towed, inventoried, impounded, and/or released.

## II. POLICY

Motor vehicles are subject to towing, inventories, impoundment, and subsequent release for varied reasons including preserving evidence, parking violations and safeguarding property.

A motor vehicle inventory is an administrative procedure designed to protect motor vehicles and their contents while in law enforcement custody; to protect the agency against claims of lost, stolen or damaged property; and to protect agency members and the public against injury or damaged property due to hazardous materials or substances that may be in the vehicle.

It is the policy of this agency to conduct motor vehicle tows, inventories, impounds, and releases only in accordance with the following procedures.

## III. DEFINITIONS

*Evidence Tow* is a tow of a vehicle in the custody of the Sheriff's Office that must be held in secure storage.

*Non-Preference Impound Tow* is a tow of any vehicle impounded for a violation of ORS 809.720 or under a court order.

*Abandoned Vehicle Tow* is the tow of any vehicle that is deemed "Abandoned" under ORS 819.100.

*Non-Preference Tow* is the towing and storage of privately owned vehicles when the operator, owner, or person entitled to possession of the vehicle specifically requests towing services without preference for a particular towing company and at his own expense, or when an owner is unable to make such a request.

*Preference Tow* is the towing and storage of privately owned vehicles when the operator, owner, or person entitled to possession of the vehicle specifically requests a preference as to which company should provide the services and at his own expense.

*Hazard Vehicle Tow* is the tow of any vehicle that is deemed a "hazard" under ORS 819.120.

*Safekeeping* means the vehicle is a recovered stolen or not able to be secured, contains valuables, and the owner is either not present or incapacitated and unable to make arrangements for its security.

## **IV. EVIDENCE TOW**

### **A. Tows As Evidence**

A deputy may place a vehicle into evidence when additional investigation necessitates its retention. In such instances, the vehicle must be towed to a secure law enforcement storage lot. The Vehicle Impound Form must be completed and the paperwork on the vehicle processed through the evidence system according to [Policy 4.10 Evidence Control](#).

Tows as evidence may include, but are not limited to, incidents involving:

1. Stolen vehicle recoveries.
2. Vehicular assault or homicide.
3. Hit and run crashes.
4. Other such crimes where there is probable cause to believe that the vehicle constitutes physical evidence to a crime.
5. When a vehicle is being held pending the execution of a search warrant.
6. Vehicles which may be forfeited under the criminal forfeiture statutes.

Since space in secured law enforcement storage is limited, it is the responsibility of the investigating deputy to process the vehicle as expeditiously as possible so as to release or dispose of the vehicle as soon as possible. The Civil Unit, at least every six months, shall make inquiries to the investigating deputy of vehicles left in secure law enforcement storage for protracted periods of time, to ascertain the continuing status of the vehicle as evidence.

### **B. Required Reports**

The following reports are required:

1. Vehicle Impound Form (original to Civil Unit);
2. Case Report. The vehicle shall be entered as evidence in the case report according to [Policy 4.10, Evidence Control](#).

## **V. VEHICLES TOWED FOR CIVIL FORFEITURE**

### **A. Towing**

Vehicles seized for civil forfeiture shall be towed as evidence to the Sheriff's Office secure impound. The District Attorney's Office shall cause appropriate notice and copies of notice to be served or delivered to those people required to receive notice of the seizure of the vehicle.

### **B. Liability for Towing and Storage**

If a vehicle seized for forfeiture is later returned to its owner, the owner shall be responsible for paying all liens for towing and storage, unless other arrangements are authorized by the Detective Captain.

## **VI. ABANDONED VEHICLES**

Members who receive complaints of vehicles being abandoned should obtain all pertinent information including license number, description, location, and how long the vehicle has been at the same location.

### **A. Abandoned Procedures**

1. A check of stolen vehicle files will be conducted. Both license number and VIN numbers are to be used, if available.

2. If the stolen status is negative and the deputy has determined that the vehicle may have been abandoned for a period of at least twenty-four hours, the deputy will post an orange Sheriff's Office Tow Notice on the vehicle.
3. If the vehicle remains abandoned at least twenty-four hours after affixing the tow notice, a deputy will request a non-preference tow for the vehicle.
4. The deputy will draw a case number and complete a report along with the necessary Vehicle Inventory Form. It is mandatory that the inventory form be completed and routed to the Civil Unit prior to completion of the deputy's shift.

## **VII. HAZARD TOWS**

### **A. Hazardous Parked Vehicle**

As per ORS 819.120(2), a hazard or obstruction includes but is not limited to:

1. Any vehicle that is parked so that any part of the vehicle extends within the paved portion of the travel lane.
2. Any vehicle that is parked so that any part of the vehicle extends within the highway shoulder or bicycle lane:
  - a. of any freeway within the city limits of any city in this state at any time if the vehicle has a gross vehicle weight of 26,000 pounds or less;
  - b. of any freeway within the city limits of any city in this state between 7 a.m. and 9 a.m. and 4 p.m. and 6 p.m. if the vehicle has a gross vehicle weight of 26,000 pounds;
  - c. of any freeway within 1,000 feet of the area where a freeway exit or entrance ramp meets the freeway; or
  - d. of any highway during or into the period between sunset and sunrise when the vehicle presents a clear danger.

### **B. Hazard Tow Procedures**

1. A check of stolen vehicle files will be conducted. Both license number and VIN numbers are to be used, if available.
2. The deputy will draw a case number and complete a report along with the required Vehicle Inventory Form. It is mandatory that the inventory form be completed and routed to the Civil Unit prior to completion of the deputy's shift
3. Notice will be mailed within forty-eight hours of the removal of the vehicle, excluding weekends and holidays, to all registered and legal owners (including the lessors or security holders) as shown in the records of the Department of Transportation. Notice will be sent certified mail and will, in summary, explain:
  - a. that the vehicle has been towed;
  - b. the authority under which the vehicle was removed;
  - c. the name of the agency requesting the removal and the name of the tow company that removed the vehicle;
  - d. the vehicle's location or a contact name or number to obtain that information;
  - e. information regarding possible tow and storage charges;
  - f. potential consequences should the vehicle not be retrieved;
  - g. information for requesting a hearing; and
  - h. necessary steps to recover the vehicle in the timeliest, most cost efficient manner.

## **VIII. IMPOUND TOW**

The Sheriff's Office contracts with certain tow companies to provide towing and storage for impounded vehicles. Vehicles towed as impounds under ORS 809.720 will be towed to the contract towing company's storage lot.

### **A. Probable Cause for Impound Tow**

Under ORS 809.720, deputies may order a vehicle impound tow when the deputy has probable cause to believe the driver of that vehicle is:

1. DWS misdemeanor, felony or revoked;
2. DWS violation;
3. DUIL in violation of ORS 813.010;
4. Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010; or
5. Driving uninsured in violation of ORS 806.010.

### **B. Justification for Impound Tow**

The 9<sup>th</sup> Circuit Court of Appeals has ruled that the impoundment of vehicles by law enforcement is a seizure without a warrant. Impounds must be justified as a community caretaking function to be constitutional. In accordance with that decision, the following are guidelines to assist deputies in knowing when it is permissible to impound a vehicle.

### **C. Impound During Traffic Stop**

Deputies may order a vehicle impounded during a traffic stop when they have probable cause to believe that:

1. The vehicle is uninsured and as such cannot be legally driven by any operator;
2. The vehicle poses a traffic hazard; or
3. The vehicle is not legally parked and there is no passenger or owner available to legally drive it or move it.
4. The vehicle is parked on private property, the property owner wants it removed and there is no passenger or owner available to legally drive it from the scene. Vehicles will not be impounded from a private driveway unless the property owner wants it removed.
5. The deputy has articulable facts that the vehicle is in a location that will likely expose it to vandalism or damage.
6. The deputy has articulable reasons to believe a DUII arrestee will attempt to drive the vehicle within a few hours of the DUII arrest.

### **D. Required Reports**

The following reports are required:

1. Vehicle Inventory Form; and
2. Case Report.

## **IX. CLAIMING A VEHICLE**

The below process must be completed for an owner to claim a vehicle that has been towed under ORS 809.720.

## **A. Release Form**

After the Sheriff's Office has been provided with the information below, a Records Unit or Civil Unit employee may authorize the release for the vehicle. The owner will be provided with the release form authorizing the tow company to release the vehicle. The owner then must go to the tow company storing the vehicle. The owner of the vehicle is responsible for all towing and storage charges accrued by the towing company.

The below information is required:

1. Proof of current insurance.
2. Valid driver's license.
3. Currency in the exact amount of the administrative fee. Lien holders or corporate owners may also pay the administrative fee with a money order, travelers check or cashiers check in the exact amount.
4. The registered owner, lien holder or person entitled to lawful possession of the vehicle (the owner) may then sign the release agreement at the Sheriff's Office. Any person who claims to be the owner of the vehicle, (not shown on DMV records) must register the vehicle prior to release. If the registered owner is not able to come to the Sheriff's Office, he can request the release agreement be faxed or delivered to him for his signature. The signature must be notarized and the release form must be returned to the Sheriff's Office. The release authorizes a specific person, with a valid driver's license, to pick up the vehicle.

## **X. INVENTORY PROCEDURES**

### **A. Administrative Inventories**

In accordance with Deschutes County Code 10.24 Personal Property and Impounded Vehicle Inventories, an authorized employee of this agency shall conduct a motor vehicle inventory without a warrant or probable cause:

1. When the vehicle has been lawfully seized, forfeited or impounded pursuant to the arrest and/or cite of the driver;
2. After towing the vehicle for violations;
3. For related enforcement or safety reasons as defined by state law;
4. When deputies conduct the inventory within the scope of this policy as an administrative procedure;
5. When a crash requires the tow of a vehicle and the owner or operator is not available, such as death and/or serious injury crash; or
6. Whenever the Sheriff's Office has possession or is responsible for the vehicle.

NOTE: Examination of the contents of a motor vehicle pursuant to a criminal investigation or with the intent of discovering evidence of a crime is a search, not an administrative inventory. Deputies shall refer to [Policy 6.03 Motor Vehicle Searches](#).

### **B. Scope of Inventory**

1. An inventory should be conducted in the location at which the vehicle is seized, unless it is impractical or unsafe. If so, it may be inventoried at a later time following impoundment.
2. If possible, the owner or operator of the vehicle shall be asked to remove all valuables from the vehicle prior to impoundment. If such items cannot be removed, they shall be inventoried before the vehicle is removed, and the owner/operator shall be requested to verify the completeness of the inventory by signature.

3. A motor vehicle inventory may extend to all areas of the vehicle in which personal property or hazardous materials may reasonably be found, including, but not limited to, the passenger compartment, trunk, truck bed, external closed containers and glove compartment.
4. All closed containers, such as locked glove boxes, trunks, hatchbacks, truck bed, external closed containers and car top containers, shall be opened for purposes of the inventory. Closed and locked containers shall not be forced open without the owner's consent or a search warrant, but shall be logged on the impound report as such. If a key or lock combination is available, locked containers shall be opened and inventoried.

### **C. Property Control**

All contents of the vehicle will be inventoried with the exception of vehicles towed pending the issuance of a search warrant. All items taken into custody during an inventory shall be listed on a Property/Evidence Receipt and a copy given to the owner of the property or to the owner/operator of the vehicle. If no owner or owner/operator is available, the receipt may be left in a conspicuous place in or about the vehicle.

1. If property valued at \$200 or more, (jewelry, watches, cash) is discovered, such materials shall be itemized on this agency's inventory and turned over to the control of the property room for safekeeping. Or, in the case of an arrested subject, deposited at the Deschutes County Adult Jail, if appropriate.
2. Control and safekeeping of hazardous materials shall be the responsibility of this agency's designated authority.
3. Contraband and evidence discovered during the course of a motor vehicle inventory shall be deposited with the evidence custodian in accordance with [Policy 4.10 Evidence Control](#).
4. Provisions must be made for any live animals prior to towing. The vehicle operator, if practical, shall be asked to identify and/or contact someone to come to the scene and take custody of the animal. If this is not feasible the animal shall be taken to the Humane Society for safekeeping. At no time shall an animal be left in a vehicle at time of tow or left in the tow driver's possession unless these arrangements were made in advance by the vehicle operator and the tow company.

## **XI. HEARING**

### **A. Vehicle Owner Request for Hearing**

At the request of the vehicle owner, the Sheriff's Office is required under ORS 809.716 or 819.190 to set a hearing on the validity of the towing and/or the creation, amount, and reasonableness of the lien.

1. The request for a hearing must be submitted in writing to the agency's Civil Unit by the vehicle owner, not later than five days after the mailing date of the impoundment notice, excluding Saturdays, Sundays, and holidays.
2. The hearing date will be set for not more than four calendar days for impounded vehicles or seventy-two hours for hazard vehicles from the date the request was received, not including the day the request was submitted and excluding Saturdays, Sundays and holidays. The hearing may be postponed at the request of the person asking for the hearing under ORS 819.190.

### **B. Deputy Appearance**

When a deputy has ordered a vehicle towed and has been notified of a validity hearing, the deputy may submit an affidavit to the hearings officer in lieu of making a personal appearance at the hearing.

### **C. Burden of Proof**

When a vehicle is towed pursuant to ORS 809.720 and a hearing is conducted under ORS 809.716, the agency shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, 807.010, 811.175, 811.182 or 813.010.

#### **D. Liability**

If the hearings officer finds the impoundment of the vehicle was proper, the hearings officer shall enter an order supporting the removal, and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The hearings officer may also find the owner or person entitled to possession of the vehicle liable for costs of the hearing.

If the hearings officer finds the impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to the possession of the vehicle is not liable for any towing or storage costs resulting from the impounding. If there is a lien on the vehicle for towing and storage charges, the hearings officer shall order it paid by the impounding agency.

## **XII. RELEASE OF TOWED VEHICLES**

Owners of vehicles towed for other than evidentiary purposes will be directed to the tow company where the vehicle is stored, with the exception of Impound Tows. Vehicle owners will be required to show proof of ownership and pay the towing and storage costs.

#### **A. Vehicle Towed for Evidence**

Under no circumstances will a vehicle towed as evidence be made available to the owner until approval by the deputy assigned to investigate the case.

The following are required reports:

1. Case Report;
2. Vehicle Inventory Form; and
3. Evidence in Custody Report.

Vehicles towed as evidence shall be held in the Sheriff's Office evidence storage facility. If the Sheriff's Office facility is unavailable, the vehicle may be stored at another secure storage facility as designated by the watch commander.

The deputy shall accompany the vehicle to the secure storage facility. Keys will be retained and placed into evidence.

#### **B. Vehicle Towed from Public Property Subsequent to an Arrest**

The following are required reports:

1. Case Report; and
2. Vehicle Inventory Form.

Vehicles will be towed and the owner/operator will be notified of the tow when the driver of the vehicle is taken into physical custody and any of the following conditions exist:

1. The vehicle is unlawfully parked at the scene of the arrest and there are no passengers who are licensed and capable of taking immediate custody of the vehicle.
2. The arrested person refuses to release the vehicle to a passenger and the vehicle is unlawfully parked.
3. The vehicle cannot be secured and contains valuables. This information must be documented in the case report.

Vehicles will not be towed under the following conditions:

1. The driver requests that the vehicle be secured and left parked at the scene and the vehicle is lawfully parked.

2. The driver requests a passenger assume responsibility of the vehicle. The passenger must be capable and have a valid operator's license. The name, date of birth and address of the passenger must be documented in the case report.

### **C. Scene of a Crash (Vehicle has no Evidentiary Purpose)**

The following are required reports:

Case Report.

A vehicle towed from the scene of a crash is the responsibility of the driver or owner of the vehicle.

When the driver is injured and transported to the hospital, the investigating deputy should attempt to inform the driver/owner where the vehicle has been taken and note the information in the report.

### **D. Recovered Stolen Vehicle (This Agency's Case or Other Agency)**

The following are required reports:

Case Report.

1. After processing for evidence, confirmed stolen vehicles will be released to the owner at the scene of recovery whenever possible.
2. If the owner cannot be contacted, the vehicle will be towed as a security tow for safekeeping. A Vehicle Inventory Form will be completed.
3. The Patrol Division is responsible for notifying the owner of the recovery. The deputy and/or his supervisor will relay recovery information to successive shifts who will continue to make reasonable attempts to contact the owner. A copy of the report will be routed to the Records/Civil Unit who will send written notification via first class mail and certified with return receipt. Written notice is in addition to deputy contact, not in lieu of.
4. When a vehicle is recovered for another agency, the agency will be notified by teletype and it will then be its responsibility to notify the victim of vehicle recovery and location. Notification will be documented in a case report.

### **E. Notifications**

1. *Vehicles Towed as Evidence:* The owner of any vehicle towed as evidence will be notified. As soon as the evidence is cleared for release, the Civil Unit will notify the owner of the vehicle. The notice shall be sent certified mail and shall state that the vehicle can now be released. The Civil Unit will notify the evidence technicians when a vehicle is released to its owner.
2. Within 48 hours, the Civil Unit will send a notice of the vehicle impoundment to all known addresses of the registered owner and legal owner or lien holder. Notification of impounded or hazardous vehicle tows will be sent certified mail.

## **XIII. DISPOSITION OF UNCLAIMED VEHICLES**

Pursuant to ORS, the Sheriff's Office shall dispose of all unclaimed vehicles in agency custody:

- after all required notifications shall been completed and documented; or
- if the owner signs a vehicle release under oath; or
- a court order grants title of the vehicle to the Sheriff's Office.

## **XIV. VEHICLE TOWED BY PRIVATE PARTY**

The following are required reports:

Incident Report.



**A. Vehicles Towed from Private Property**

1. Vehicles towed from private property shall be at the request of the owner or person in charge of the property and will be his responsibility.
2. When a vehicle is towed from private property during normal office hours, Sheriff's Office records staff will be notified by the tow company, make the necessary entries in LEDS, and advise 9-1-1 Dispatch. Records members will generate an incident report using an incident number provided by 9-1-1 Dispatch.
3. After 5:00 pm on weekdays, or on weekends or holidays, 9-1-1 Dispatch will be notified by the towing company when a vehicle is towed from private property. The 9-1-1 Dispatch staff will enter information into LEDS.

**B. Repossessed Vehicle - Any Vehicle Towed at the Request of the Lien Holder**

1. When a vehicle is towed due to repossession during normal office hours, Sheriff's Office records staff will be notified by the tow company and will make the necessary entries.
2. When a vehicle is repossessed during normal office hours, Sheriff's Office records staff will be notified by the tow company, make the necessary entries in LEDS, and advise 9-1-1 Dispatch. Records members will generate an incident report using an incident number provided by 9-1-1 Dispatch.

After 5:00 pm on weekdays, or on weekends or holidays, the tow company will notify 9-1-1 Dispatch when a vehicle is towed due to repossession. The 9-1-1 Dispatch staff will enter this information in the computer.