

GENERAL ORDER
FAIRFAX COUNTY POLICE DEPARTMENT



SUBJECT: IMPOUNDMENT OR SEIZURE OF MOTOR VEHICLES NUMBER: 520.4

CANCELS ORDER DATED: 1-1-13 DATE: 4-1-13

I. PURPOSE

The purpose of this General Order is to enumerate those situations in which a police officer has the authority to impound or seize a motor vehicle; specify the procedures to be followed subsequent to impoundment or seizure; and to provide guidance in the administration of the towed vehicle appeals process.

II. POLICY

It is the policy of this Department to impound or seize motor vehicles in a manner which is within the constraints imposed by State and County law, for the purposes of ensuring highway safety; fostering voluntary compliance with law; protecting private property; and securing items of evidentiary value.

III. CIRCUMSTANCES UNDER WHICH A MOTOR VEHICLE MAY BE TOWED

The towing of motor vehicles at the direction of a police officer falls into three broad categories, designated for the purpose of this Order as impoundments, seizures, and administrative impoundments. The chart below summarizes the various types of tow-ins and indicates the statutory authority for each.

A. Impoundments

An impoundment is defined as the towing of a vehicle under circumstances where the vehicle may be released to the owner upon payment of towing and storage fees.

<u>Reason</u>	<u>Statutory Authority</u>
1. Arrest of operator, no other person present who can lawfully assume custody of vehicle.	1. State - § 19.2-80.1

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| 2. Vehicle constitutes evidence in and of itself. | 2. None; purpose is to protect evidence for introduction at trial. |
| 3. --Hazard.
--Parked in violation of law.
--Unattended more than ten (10) days upon public property or on private property without property owner's consent.
--Abandoned more than four (4) days upon public property and in violation of law.
--Remains parked in violation of law, after receiving a citation or warning.
--Immobile due to adverse weather conditions. | 3. County - § 82-5-29
County - § 82-5-4
State - §§ 46.2-1213
46.2-1217 |
| 4. Stopped on the highway, impeding or rendering dangerous the use of the highway, disabled as result of accident/mechanical breakdown. | 4. County - § 82-1-6 (46.2-888) |

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| 5. Stopped in vicinity of fire, accident, or emergency scene and constitutes hazard or interferes with police or fire operation. | 5. County - § 82-1-6 (46.2-890) |
| 6. Obstructing movement on any premises, driveway, or parking area without owner's permission. | 6. County - § 82-5-20.1
State - § 46.2-1211 |
| 7. Parked without permission on County-owned property. | 7. County - § 82-5-32 |
| 8. Parked in violation of Community Parking District restrictions. | 8. County - § 82-5B-7 |
| 9. Unpaid parking citations. | 9. County - § 82-5-41 |
| 10. In violation of County Code § 110-3-1, inoperative or junk vehicles. | 10. County - § 110-3-1
Note: Enforcement of this code is defined in § 110-1-3 |

B. Seizures

A seizure is defined as the towing of a vehicle which is subject to forfeiture to the Commonwealth.

Reason

Statutory Authority

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| 1. Racing on a highway; vehicle operated by owner, or owner is present in the vehicle at the time of the offense. | 1. State - § 46.2-867
Note: Vehicles taken for evidence under this statute cannot be seized until a conviction is obtained. |
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| 2. Illegal transportation of alcoholic beverages or transportation of illegal alcohol. | 2. State - § 4.1-310 |
| 3. --Transportation of stolen goods valued at \$200 or more.
--Transportation of any stolen property, regardless of value, obtained as a result of a robbery.
--Vehicle used to commit second or subsequent offense of §§ 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357 (prostitution offenses). | 3. State - § 19.2-386.16 |
| 4. Vehicle used in connection with illegal manufacture, sale or distribution of controlled substance. | 4. State - § 19.2-386.22 |

C. Administrative Impoundments

An administrative impoundment is defined as the towing of a vehicle which will be held by the court for 30 days (see 1, below), three days (see 2, below), or released by a judge's order. Rented or leased vehicles shall not be administratively impounded.

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Reason

Statutory Authority for Administrative Tow

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|---|-----------------------------------|
| 1. Operated by a person whose privilege to drive is suspended/revoked, based whole or in part for (a) driving while intoxicated in violation of 18.2-266, 46.2-341.24 or substantially similar law or ordinance in any other jurisdiction, (b) refusal to submit to breath or blood test, (c) habitual offender adjudication based in whole or in part on an alcohol related offense, or (d) license administratively suspended under State Code § 46.2-391.2 or County Code § 82-1-6 (46.2-391.2). | 1. County - § 82-1-6 (46.2-301.1) |
| 2. Operated by a person who is in violation of § 46.2-300 (Driving without a valid license), having been previously convicted of such an offense or substantially similar offense of any county, city, or town, or law in any other jurisdiction. | 2. County - § 82-1-6 (46.2-301.1) |

IV. PROCEDURES FOR WHEN VEHICLE SHOULD NOT BE IMPOUNDED

- A. If, at the direction of an arrested operator the vehicle is turned over to another person present at the scene, officers shall note the following information in the Incident or Arrest Module:
1. Name, address, and description of the individual assuming possession of the vehicle.
 2. Location to which the vehicle is to be transported.

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3. Statements indicating the license status of the person assuming possession of the vehicle.
 4. Statements indicating the level of intoxication (if any) exhibited by the person assuming possession of the vehicle.
- B. If the arrested operator legally parked the vehicle on property within their ownership or management in response to the initiation of a traffic stop, but prior to the arrest being completed, the following information shall be included in the Incident or Arrest Module.
1. Location where the traffic stop was initiated.
 2. Location where the vehicle was parked.
 3. Nature of the property where the vehicle was parked (owned by the operator, managed by the operator, etc.).
 4. Operator's response to the officer's offer to impound the vehicle for safekeeping.

V. VEHICLE INVENTORY POLICY AND PROCEDURE

- A. Vehicles towed at the direction of a police officer shall undergo an inventory of contents, as specified below, to be conducted by the officer who makes an arrest requiring the towing of a vehicle or who is assigned to the case in non-arrest situations. The inventory is conducted for the purpose of protecting the personal property of persons whose vehicles are towed under circumstances where they cannot arrange for the safekeeping of items contained in the vehicle, and to assist in defending against allegations of theft directed at the Police Department.
- B. Circumstances under which a vehicle shall be inventoried.
1. All vehicle seizures.
 2. All impoundments, except cases where the vehicle owner or operator is present at the time the vehicle is towed and is capable of arranging

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for the safekeeping of items of personal property contained in the vehicle.

For example, vehicles shall not be inventoried in cases of towing from the scene of a traffic accident unless the owner, authorized operator, or someone on their behalf is not present at the scene to arrange for the safekeeping of personal property when the vehicle is towed from the scene.

C. Location and scope of inventory.

1. During routine impoundments, vehicles subject to inventory shall be inventoried prior to removal from the scene. Vehicles to be processed for evidentiary purposes and towed to a police facility for this purpose shall only be inventoried at the direction of the lead investigating officer or detective, or crime scene detective.
2. The scope of the inventory shall include the interior of the vehicle and areas which can be readily entered without the use of force. The glove compartment, console, or trunk is within the scope of the inventory if unlocked or entry can be made with the keys to the vehicle.

Seats shall not be removed and the inventory shall be conducted in a manner to avoid any damage to the vehicle or its contents.

D. Storage of items discovered during the inventory.

1. Towing companies under agreement with Fairfax County are responsible for the vehicle and its contents until retrieved by the owner or otherwise disposed of by law. Consequently, items discovered during the course of the inventory will normally remain in the vehicle until retrieved by the owner from the storage facility. Contraband, or items constituting evidence of a crime, shall be removed by the officer conducting the inventory for storage in the Property Section pending proper disposition.
2. If the officer conducting the inventory has reason to believe that items of value located in a vehicle to be towed will not be properly protected

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while at the storage facility, the officer shall remove the items for storage in the Property Section.

VI. REQUEST FOR TOWING SERVICES

- A. Vehicles towed at the direction of a police officer shall be towed by a wrecker service under current contract with Fairfax County. Requests for wrecker service shall be routed through the Department of Public Safety Communications (DPSC), which is responsible for ensuring response in accordance with the procedures in the current towing agreement as provided by § 82-5-31 of the Fairfax County Code.
- B. Requests for towing service shall include the following information where applicable:
 - 1. Whether the case is an impoundment or a seizure or an administrative impoundment.
 - 2. Size and type of vehicle, and the need for special equipment in unusual circumstances.
 - 3. When necessary, the exact location of and best route to the vehicle shall be provided to the DPSC to ensure a proper response time from the authorized towing company.
- C. After requesting towing services through the DPSC, the officer shall remain on the scene to ensure that only the towing company summoned by the DPSC handles the request. If a wrecker responds to the scene without having been requested by the DPSC, the officer shall request that the wrecker leave. The officer shall also advise the DPSC of such incidents and provide the name of the towing company, if it is under the current towing contract with the County. In addition, the impound towing coordinator shall be notified and will follow up on such complainants.
- D. Vehicles which require processing by the Crime Scene Section shall be impounded and transported under escort to the Forensic Facility located to the rear of the McConnell Public Safety Transportation Operations Center (MPSTOC), by an approved towing company. The Crime Scene Section supervisor shall be notified immediately to facilitate the securing of the

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vehicle. Once processed, if storage is necessary, the officer/detective handling the case shall contact the Police Department Vehicle Coordinator, who will arrange for the Department of Vehicle Services (DVS) to tow the vehicle to a secure police facility storage lot. The investigating officer shall ensure that the DVS wrecker is accompanied by an officer during the tow. Suspected stolen vehicles which must be towed to DVS in order to search for hidden VIN numbers shall be handled in the same way. The Vehicle Coordinator shall be contacted to arrange the tow, and an officer/detective shall accompany the vehicle.

- E. Citizen requests for wrecker service because of mechanical breakdown, or accident disablement where the vehicle does not require immediate removal as a traffic hazard, shall also be routed through the DPSC. All citizen requests for a specific towing company must include either the name of the company, or a telephone number. If such information is unknown, the officer will request the nearest available towing service. Citizen requests do not require the assignment of a case number or the completion of any forms by the officer performing the service. If a case number is inadvertently assigned, it shall be cleared by the radio code "10-99." Officers are not required to remain on the scene to await the tow truck if the vehicle is parked in a safe location, off the travel portion of the roadway, and no other police service is needed.

VII. FORMS: COMPLETION, DISTRIBUTION, AND FILING INSTRUCTIONS

- A. PD48, Vehicle Tow-In and Inventory Record

A PD48 is to be completed by the towing officer assigned to any case where a vehicle is towed at the direction of a police officer, at the scene and prior to the removal of the vehicle by the towing company. All information known to the officer at that time shall be entered on the form. Information not available to the officer at the scene will be entered prior to submission of the form at the conclusion of the shift.

The inventory portion of the form is completed in all cases where a towed vehicle is inventoried pursuant to Department policy, as indicated in the section of this Order covering vehicle inventory.

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The PD48 is to be completed in addition to other reporting forms used to record the details of events to which a case number is assigned. The Incident Report, Supplemental Incident Report, or State Crash Report shall be completed when appropriate, to record the details of the investigation conducted by the assigned officer.

If a vehicle is towed at the direction of a police officer to a police facility for evidentiary processing, a second PD48 must be completed to note any changes in the vehicle condition, to include items no longer with the vehicle, if the vehicle is later towed to an approved storage lot or secure police facility. A second tow will generate an additional towing charge and should only be done when necessary. The impound towing coordinator or on-call CRU supervisor can be consulted for guidance.

If a vehicle is towed for evidentiary purposes, and it belongs to a victim of a crime against a person or uninvolved third party, they should not be held liable for tow fees. The vehicle should be returned to the owner and the supervisor of the investigating officer or detective must complete a memorandum requesting tow fees be covered by the impound towing coordinator. A memorandum is available on the K: drive, under *Purchasing/Request to Pay Tow Memo*, for this purpose. In a case in which a vehicle is towed for evidentiary purposes and the crime does not involve a crime against a person, the owner of the vehicle shall be responsible for the tow fees. To minimize the impact to a victim of property crimes, vehicles should only be towed on an as-needed basis.

Special considerations for payment of towed vehicles can be made with approval of the commander of the officer requesting the tow and the commander of the Traffic Division. Approval must be obtained before payment will be made. This type of request for tow payment will be made by the officer's supervisor, in a memorandum format, through their commander to the commander of the Traffic Division.

Any victim that has accrued a tow fee can be directed to the Circuit Court to request assistance with the fee. The state has a Victim Fund to help victims recover the costs of a tow not covered by the insurance company.

Form distribution shall be as indicated on the form with the following special instructions:

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1. When an owner of the vehicle is present at the scene of a tow or is readily available (i.e., arrested, hospitalized, etc.), officers shall complete the PD48 and provide the owner's copy to the owner in person.
2. If an owner of the vehicle is not present when any motor vehicle is removed by or under the direction of a police officer, and the owner of the vehicle cannot be located at the time of the removal, the owner's copy of the PD48 should be mailed to the owner. Under the provisions of Chapter 82 of the County Code, the Department must provide written notice to the owner by first class mail. Notification of the owner by the Department must be in writing, within one full working day of the towing. Commanders shall ensure that mailing of the PD48 to the registered owner of the towed vehicle is completed in a 24-hour period from the time of the tow. The bottom of the station file copy of the PD48 shall indicate the time of the mailing.
3. For rented or leased vehicles, the rental or leasing company shall be notified.
4. In the case of an administrative impoundment, the information on the top half of the reverse side of the owner's copy of the PD Form 48 shall not apply. Officers shall cross out this information. When the owner was the operator, none of the information on the reverse of the owner's copy applies and only the operator's copy should be given to the owner/operator. The towing officer shall also give the magistrate the Court's copy of the PD48, with the Court's copy of the summons, prior to the end of shift. This must be done through personal delivery or by sending a facsimile of both sides of the Court's copy of the PD48.
5. All PD48 forms shall be scanned and attached to the corresponding I/LEADS incident report and retained for three years, in accordance with the Library of Virginia.

B. Notification of Seizure

Prior to the seizure of a vehicle (refer to the definition in Section III, subsection B of this General Order), the asset forfeiture detective or the on-

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call OCN supervisor must be contacted by phone. Notification shall be done through DPSC.

C. PD4MN Media Notification of Tow When Registered Owner Cannot be Determined

The Request for Media Notification of Towed Vehicle form is used when the owner of a vehicle cannot be located or determined. Completed forms shall be scanned and attached to the appropriate I/LEADS module (Arrest, Citation, or Incident). Instructions for completing the PD4MN can be found in Section III, Chapter 8 of the Report Writing Manual.

D. PD184 Results of a Chapter 82 Hearing of a Vehicle Tow

PD184 shall be completed by the hearing officer upon completion of a proceeding to determine if probable cause existed to tow a vehicle under Chapter 82 of the County Code. Distribution of the form shall be made according to the distribution printed on the form.

VIII. RESPONSIBILITIES OF TOWING OFFICER, HEARING OFFICERS, AND DPSC

A. Duties of Towing Officer

1. The towing officer shall complete and distribute all necessary forms in accordance with section VII of this General Order.
2. If the officer cannot contact the registered owner by the end of the shift, the officer shall notify the DPSC teletype section and provide the necessary information from the PD48 for entry into the VCIN Stored Vehicle File. The officer shall record the message number as furnished by the DPSC on the PD48 form and on any I/LEADS module associated with the vehicle.
3. When a vehicle is towed and the registered owner cannot be determined or when the PD48 is returned "undeliverable" by the Post Office, the procedure for completion and distribution of PD4MN, as detailed in section VII of this General Order, shall be followed.

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4. If an officer directs the towing of a vehicle which is determined to be stolen, the registered owner of the vehicle shall be advised to contact the Police Wrecker Coordinator, through the DPSC, for assistance in seeking possible reimbursement for towing and storage fees.
5. An officer who directs the towing of a vehicle to be held for evidence and determines later that the vehicle may be released shall notify the registered owner and the appropriate wrecker service, so that the vehicle may be released. If the wrecker service personnel request personal contact to assure that a valid release is authorized, the notifying officer shall make contact or arrange for another on-duty officer to make contact.
6. In the Incident Report and any subsequent Supplemental Incident Report, the officer shall note what action was taken to contact the registered owner and indicate what disposition was made concerning PD Form 48 and/or other reporting forms which may be required in certain cases.
7. In cases of impounds for unpaid parking citations, the officer shall also notify the Department of Tax Administration (DTA) by faxing a copy of the PD48 to DTA.

B. Hearings and the Duties of the Hearing Officer

1. An owner of a towed vehicle has three weeks (21 days) from the date of notice by the Police Department to request that a hearing be held to determine the propriety of the removal of the vehicle under the law. The PD48 informs owners of the requirement to provide written notification to the Department to initiate a hearing. The PD48 is designed to direct requests for a hearing to be mailed directly to the Office of the Chief. When a request for a hearing is received, it must be date/time stamped and immediately sent to the appropriate commander to initiate the hearing process. It is imperative that these individuals be notified in a timely fashion. The County Code requires that the hearing shall be held within 24 hours of the receipt of request – if specifically requested by the vehicle owner. Otherwise, the vehicle owner shall be contacted within 48 hours after the request for a hearing is received by the Police Department in order to arrange for a hearing date.

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2. The County Executive has authorized the following individuals to act as Hearing Officers:
 - District station commanders or assistant station commanders.
 - SOD commander or assistant commander.
 - Traffic Division commander or assistant commander.
 - CIB, Major Crimes commander or assistant commander.
 - Duty Officers prescribed by the Chief of Police.

The Hearing Officer(s) shall determine whether probable cause is sufficient to believe that vehicles were towed in accordance with the law.

3. Once notified, the Hearing Officer shall contact the owner of the towed vehicle and arrange a convenient time and place to conduct a hearing. The most convenient district station should be utilized whenever possible for the conduct of these hearings.
4. PD184 is provided for recording the findings of the Hearing Officer. If the Hearing Officer determines that the tow was proper, this fact will be indicated on the form by marking the space provided. This space indicates to the owner that the tow was proper and the owner may obtain the vehicle only upon paying accumulated costs.
5. When the Hearing Officer authorizes County payment of the towing costs, the Hearing Officer shall arrange for the prompt release of the vehicle with the DPSC and vehicle storage lot personnel, if necessary.

IX. LEGAL REFERENCES

A. *Code of Virginia*

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| 1. 19.2-80.1 | 6. 46.2-888 |
| 2. 19.2-386.16 | 7. 46.2-890 |

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| 3. 19.2-386.22 | 8. 46.2-1211 |
| 4. 46.2-301.1 | 9. 46.2-1213 |
| 5. 46.2-867 | 10. 46.2-1217 |

B. *Code of the County of Fairfax County*

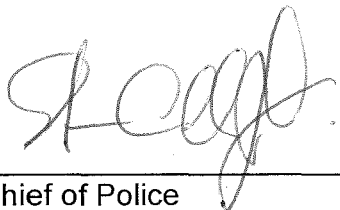
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|--------------|-------------|
| 1. 82-1-6 | 6. 82-5-32 |
| 2. 82-5-4 | 7. 82-5-41 |
| 3. 82-5B-7 | 8. 82-11-2 |
| 4. 82-5-20.1 | 9. 110-1-3 |
| 5. 82-5-29 | 10. 110-3-1 |

X. ACCREDITATION STANDARDS REFERENCE

VLEPSC
OPR.
07.12

This General Order becomes effective April 1, 2013 and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:



Chief of Police

APPROVED BY:



County Executive