

To: City Manager Steve Forrester  
From: Capt. Michael Boyd  
CC: file  
Date: July 20, 2009  
Re: Council Approval requested for Update to Prineville Police Department Vehicle Inventory and Impound Policies



**REQUESTED ACTION:**

We request approval of some minor updates to our Vehicle Inventory Policy. Council approval of Vehicle Inventory and Impound Policies are required by law.

**BACKGROUND:**

Due to changes in case law and requests for some clarifications by the District Attorney, we have updated our Vehicle Inventory and Impound policies. There is a requirement in law that the policies are approved by the City Council. The original policies have been approved, but we need the updates approved as well.

**FISCAL IMPACT:**

None

**REQUESTED ACTION:**

Staff requests approval.

**ATTACHMENTS:**

Revised Policies

PRINEVILLE CITY POLICE DEPARTMENT  
POLICY AND PROCEDURES -GENERAL POLICIES (INVESTIGATIONS)

SUBJECT: MOTOR VEHICLE TOWS, INVENTORIES,  
IMPOUNDS and RELEASES

POLICY NO: 500.011

EFFECTIVE DATE: July 07, 2003

APPROVED BY:



Eric C. Bush, Chief of Police

OAA REFERENCE: 1.2.4

REVISED 07/07/03  
07/21/2009

I. **PURPOSE**

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

II. **POLICY**

Motor vehicles are subject to towing, inventories, impoundment and subsequent release for many and varied reasons ranging from preserving evidential value in a criminal case, parking violations, safeguarding property, and specific offenses as set forth in ORS 809.720.

A motor vehicle inventory (See 500.010) is an administrative measure designed to protect motor vehicles and their contents while in police custody; to protect the agency against claims of lost, stolen or damaged property; and to protect departmental personnel 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 the Prineville Police Department to conduct motor vehicle tows, inventories, and impounds, only in accordance with the following procedures and with approval of a Supervisor.

III. **DEFINITIONS**

1. *City Tow*: Tow of a vehicle owned by the City.
2. *Security/Investigative Tow*: Tow of a vehicle in the custody of the Department, which must be held in secure storage. This includes a vehicle towed for safekeeping, and an impoundment for evidence.
3. *Abandoned Vehicle Tow*: Tow of any vehicle which is deemed "Abandoned" under applicable state law or city ordinance, or which is towed as a hazard or obstruction to traffic under O.R.S.483.382 or 819.120.
4. *Owner Request Tow, Non-Preference*: 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 their own expense.
5. *Owner Request Tow, Preference*: 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 their own expense.
6. *Police Request Tow*: Towing and storage in which the owner or operator cannot or will not indicate who they prefer to tow the vehicle (such as motor vehicle accidents involving injury or death, and the vehicle does not meet "Security Tow" requirements).
7. *ORS 809.720 Tow*: Towing of a vehicle when a Police Officer has probable cause to believe that the operator of the vehicle was committing a specific offense as set forth in ORS 809.720.

#### IV. SECURITY HOLD/INVESTIGATIVE HOLD

An officer may place an investigative or security hold on a vehicle legally seized when additional investigation necessitates its retention, such as application for a search warrant or additional crime scene processing.

##### A. Investigative Hold Expiration

An investigative hold shall expire in 72 hours, excluding Saturdays, Sundays, and holidays, unless a search warrant for the vehicle is granted or the vehicle is secured under court order. The investigative Officer shall be responsible and shall initiate immediately upon completion of the hold or expiration of the hold, the necessary paperwork that shall include at least a copy of the tow bill and the release form. This paperwork needs to be given immediately to the evidence officer, and in their absence, the on duty dispatcher.

##### B. Reason for Hold

The initiating officer shall indicate in the narrative report the reason and purpose of the investigative hold. The officer shall cause the hold to be lifted as soon as practicable after the purpose for the hold has been fulfilled see "A" above.

##### C. Notification

If a vehicle is held for investigative purposes or requires special processing, the initiating officer shall notify his/her Sergeant or Supervisor of that requirement.

##### D. Liability of Tow Bill

Tow bills shall be the liability of the owner or operator of the motor vehicle unless the vehicle being held is being held for evidentiary purposes at the direction of a Supervisor or the District Attorney.

#### V. ABANDONED VEHICLES

Personnel who receive complaints of vehicles being abandoned should obtain all pertinent information including license number, description, location, and lapse of time involved.

##### A. Abandoned Procedures

1. A check of the vehicle to see if it is stolen will be conducted.
2. If the stolen status is negative, the officer will attach a Police Tow notice on the vehicle.
3. The Police Tow Notice will be mailed to the registered and legal owners of the vehicle advising of the city's intent to tow the vehicle.
4. If the vehicle remains abandoned 10 days after affixing and mailing the police tow notice, the vehicle will be towed by a non-preference tow, and stored at that tow companies yard. The officer ordering the tow will complete an incident report detailing the tow of the vehicle.
5. The Officer shall be responsible for forwarding a copy of the incident to the Department Vehicle Appraiser (Operations Captain). Department vehicle appraiser will be responsible to see that all applicable State, County and City Laws and/or Ordinances are followed.

##### B. Disabled Procedure

1. If a vehicle is disabled or abandoned at the scene of an accident or other incident and constitutes a hazard or obstruction to traffic, and the owner or operator cannot or will not specifically request a preference or non-preference tow, or allow the officer to legally park the vehicle, the officer can request a non preference tow, and cause the vehicle to be moved at the drivers or owners expense.

##### C. Claiming a Vehicle that has been abandoned or towed due to being a traffic hazard

To claim a vehicle which has been towed due to abandonment or because the vehicle presented a traffic hazard, and is in the custody of the Police Department, the owner must first come to the police department and present proof of compliance with the conditions set forth in **Section VI E**. Dispatch may then authorize the release by either stamping form A: 500.100 or form A: 500.100a, authorizing the tow company to release the vehicle. **NOTE: We will not charge the \$100.00 administrative fee for release of vehicles stored due to abandonment or traffic hazard.** The owner shall be directed to the tow company where he or she may retrieve their vehicle after paying the appropriate tow fees.

The on-duty dispatcher shall remove the vehicle from LEADS upon notice from the tow company that the vehicle has been reclaimed.



VI. **ORS 809.720 Tow**

**A. Authority to tow**

An officer having a vehicle towed or released, pursuant to ORS 809.720, shall adhere strictly to the procedures established in this policy and Policy 500.010.

**REFERENCES:**

**ORS 809.720 IMPOUNDMENT FOR SPECIFIC OFFENSES**

This statute provides that a Police Officer, who has probable cause to believe that a person, at or just prior to the time the Police Officer stops the person, has committed one of the below listed offenses, may, without prior notice, order the vehicle impounded until a person with the right to possession of the vehicle complies with the conditions for release. The "specific offenses" include:

**811.175 - Violation Driving While Suspended**

**811.182 - Criminal Driving While Suspended or Revoked**

**813.010 - Driving Under the Influence of Intoxicants**

**807.010 - Operating a Vehicle Without Driving Privileges or in Violation of License Restrictions**

**806.010 - Driving Uninsured**

Case Law Considerations:

Vehicles are not to be towed and/or impounded under The authority of ORS 809.720 under any of Following circumstances:

- \* The vehicle is parked on private property on which the registered owner or operator is legally residing, or the property owner does not object to the vehicle being left in the parked location.
- \* The register owner and/or a passenger present in the vehicle at the time of the stop have a valid driver's license and are willing and legally able to drive the vehicle at the time.
- \* The vehicle is legally parked at the time and place where the likelihood of it being subject to theft and/or vandalism is remote and traffic or public safety is not impeded.

**B. Procedure**

1. A Police Officer who believes that a person is driving in violation of ORS 806.010, 807.010, 811.175, 811.182, and or 813.010 may, without prior notice, order the vehicle impounded.

Before a Police Officer tows a vehicle where the "specific offense" is a violation of ORS 806.010 the Police Officer shall verify that the vehicle is not exempt from impoundment. The below vehicles are exempt from impoundment pursuant to ORS 809.720:

- a. Antique motor vehicle issued permanent registration under ORS 805.010
- b. Farm trailer
- c. Farm tractor
- d. Implement of Husbandry
- e. A motor vehicle of special interest that is maintained as a collectors item and is primarily used for exhibitions, parades, club activities and similar uses, and not as primary transportation
- f. Snowmobiles, Class I or Class III all-terrain vehicle.

Vehicles will not be towed pursuant to ORS 806.012, Not Carrying Proof of Compliance with Financial Responsibility Requirements.

2. A Police Officer towing vehicles under this section shall issue a citation for the original offense(s) listed above supporting the impoundment under ORS 809.720.
3. A Police Officer towing vehicles under ORS 809.720 shall provide the person having operated that vehicle with an ORS 809.720 IMPOUNDMENT OF VEHICLES form (Form A: 500.011 ORS 809.720 Impound Form or A: 500.100a, Prineville Police Department Vehicle Storage / Impoundment Report), which includes impoundment release instructions, and make a tow log entry by advising Dispatch. The vehicle will be towed by a non-preference tow, and stored at that tow company's yard.
4. An Officer causing a vehicle to be impounded must immediately complete an incident report and an ORS 809.720 IMPOUNDMENT OF VEHICLES form. (Form A: 500.011 ORS 809.720 Impound Form or A: 500.100a, Prineville Police Department Vehicle Storage / Impoundment Report) Copies of this form will be given to the driver of the vehicle and to the Tow Company Drive. The original and one copy will be submitted with the incident report. The incident report must detail the reason for the traffic stop and the action taken as a result.

5. The incident report will be processed like all other reports written by officers. A copy of the ORS 809.720 IMPOUNDMENT OF VEHICLES form. (Form A: 500.011 ORS 809.720 Impound Form or A: 500.100a, Prineville Police Department Vehicle Storage / Impoundment Report) will be given to the Department budget manager for accounting.

**C. Driver Protection**

If the tow results in a stranded motorist at a hazardous location or conditions present a hazard to the motorist, the Officer shall attempt to do one of the following whenever possible:

1. Arrange for prompt removal of the driver and any passengers to a place of safety by taxi, third party or other means, or
2. Transport the motorist and occupants to a location of safety, or
3. Have dispatch contact a third party of the motorist's choice.

A person shall not be allowed to remove any part permanently attached to the vehicle prior to towing. (Permanently attached means wired, bolted, screwed, welded, etc.). Loose items may and should be removed.

**D. Notice that a vehicle has been impounded**

After the report is approved the records personnel will mail to the Registered Owner and/or Lien Holder (and any Security Interest Holders if listed as part of the vehicle registration) a NOTICE OF VEHICLE TOW (Form B: 500.011 Notice of Vehicle Tow) prescribed by ORS 809.720 and within the requirements of ORS 819.180.

**E. Vehicle Release**

1. The vehicle impounded shall be released to a person entitled to lawful possession by the Records Division, providing the following conditions:
  - a. Proof of compliance with financial responsibility requirements,
  - b. Presentation of picture identification,
  - c. Payment of the administrative fee to the Police Department,
  - d. Payment of any towing and storage fees, and
  - e. If towed pursuant to ORS 809.720, proof of valid driving privileges will also be required.
  - f. A person entitled to lawful possession may be a person other than the owner. Records may release a vehicle to the last driver of the vehicle if that person is otherwise lawfully able to drive that vehicle (i.e. personally licensed, presents valid proof of insurance etc.). Any other third parties trying to reclaim the vehicle must provide notarized authorization from the owner specifically authorizing the other person lawful possession. The standard requirements still apply.
  - g. Four ways to provide proof of liability insurance:
    - (1) A motor vehicle liability insurance policy
    - (2) Proof of bond approved by a judge (ORS 806.090)
    - (3) Proof of deposit with the Department of Transportation (ORS 806.115)
    - (4) Proof of a DMV Police of Self-insurance (ORS 806.130)
  - h. Proof shall be presented to Records clerical staff who shall authorize the person storing the vehicle to release it upon payment of the charges. The Records Clerk shall stamp or sign a copy of the ORS 809.720 Impound Form (Form A: 500.011 ORS 809.720 Impound Form or Form A: 500.011a, Prineville Police Department Vehicle Storage / Impound Report) as proof that the release requirements have been met. The stamped or signed form and the payment receipt from the Police Department can then be presented to the Tow/Storage Company as proof that the vehicle can be released when the Tow/Storage Company is paid.
  - i. If the owner and/or interest holders of the vehicle do not wish to reclaim the vehicle, they should be encouraged to contact the tow company to resolve any ownership issues.
  - j. Under ORS 809.710 a Police Officer, a Police Agency or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants.
  - k. ***Vehicles may also be reclaimed by legal owners/lien holders who provide proof of formal repossession of the vehicle from the registered owner.***

**F. Hearing on Impoundment**

1. A person entitled to lawful possession of the vehicle impounded under ORS 809.720 may request a hearing to contest the validity of the impoundment.
2. The request must be made in writing within five (5) calendar days of the impoundment. The request shall be made to a person designated by the impounding agency. A hearing shall be held before a designated Hearing Officer (the Hearing itself can be by telephone). The Hearing shall be set within four (4) calendar days after the request is received, excluding weekends or holidays. The person asking for the Hearing may postpone the Hearing. The Operations Captain shall serve as the Hearing Officer.
3. The impounding 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 (Driving uninsured), ORS 807.010 (No Op. Lic.), ORS 811.175 (DWS-Fel.), ORS 811.182 (DWS-Misd.), and/or ORS 813.010 (DUII)
4. If the Hearing Officer finds that the impoundment of the vehicle was proper, the hearing officer shall enter an order supporting the removal and find that the owner or person entitled to possession is liable for "usual and customary towing and storage cost". The Hearing Officer may also find the same person is liable for the cost of the hearing. If the Hearing Officer finds that the impoundment was improper, the Hearing Officer shall order the vehicle released to the person entitled, and shall enter a finding that the person is not liable for towing and storage charges and shall order charges be paid by the Prineville Police Department. (ORS 809.716)

**VII. INVENTORY PROCEDURE:**

See Section 500-010

**VIII. RECORDS**

All vehicles towed, with the exception of an investigative hold, are required to be entered into the state Law Enforcement Data Systems (LEDS) files as soon as possible and under no circumstances should the delay exceed one hour. This procedure is documented in the LEDS Operating Manual, Section 5.11 "Impounded-Repossessed-Missing Vehicle Entry."

If a vehicle is not reclaimed by the Owner/Lien Holder within 30 days of the date of tow, dispatch personnel shall contact the tow company to determine anticipated disposition of the vehicle and then make appropriate LEDS data entries.

Once the vehicle has been reclaimed by the owner, or ownership has been resolved by a third party (repossession or lien sale by tow company), all Police Department documents shall be filed with the original case file.