

SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 61.4

TRAFFIC: ANCILLARY SERVICES

ISSUED APRIL 2006

61.4.1 Motorist Assistance

Officers performing patrol duties shall inspect all vehicles that appear to be abandoned, unlawfully parked or disabled. Assistance shall be provided as outlined below.

Officers should render appropriate assistance in the event of contact with a motorist requiring information, directions, or other assistance, i.e., a stranded person. While the officer should not engage in physical assistance (jump starts, tire changes, mechanical repair) he/she may summon a tow truck, or cause a phone call to be made to a repair facility or person of the motorist's choice.

Owners/drivers who can be promptly and conveniently located should be provided reasonable assistance in making arrangements to remove their unlawfully parked vehicles.

Vehicles obstructing normal traffic flow should be moved to a safe location, or removed as provided under Vehicle Code Section 22651. Officers summoning a tow truck shall utilize one of the companies that the City maintains on our rotational list, unless the citizen in need of service requests a specific company. If the officer calls for a company requested by the citizen, it should be a local company, with an estimated response time no longer than the rotational firms.

Whenever an officer observes a motorist attempting to make repairs to a vehicle and the vehicle or motorist is on the roadway so as to be a hazard, the following actions shall be initiated:

- Stop at the location of the disabled vehicle, or if dispatched to an emergency call, immediately notify Communications and cause another officer to be sent to assist the motorist as soon as possible.
- Ascertain if the vehicle can be moved away from the roadway.
- If unable to move the vehicle, the officer shall remain at the scene to provide protection to the stranded motorist until temporary repairs are made or until the vehicle can be moved to a position of safety or until the situation is abated.
- If the vehicle does not pose a road hazard, the officer is not required to stay at the scene after making a notification for assistance.
- An officer may provide transportation in order to relocate a motorist to an area of safety.

Officers are not equipped or trained in fire-fighting or medical treatment beyond basic first aid. Police responsibility at those types of incidents is assessment of the scene and public safety. Officers shall call the appropriate response unit and render assistance in the areas they deem most critical.

61.4

61.4.2 Highway Hazards

Roadway hazards, roadway defects, debris, defective signals, defective lighting equipment, abandoned vehicles, and damaged or missing street signs can become hazardous conditions that cause collisions or vehicle damage.

Officers observing any roadway hazard should notify Communications of the situation. Should the situation be an immediate hazard, the appropriate response unit will be called out to repair or correct the problem immediately.

Upon observing an immediate safety hazard, or any material that may be hazardous, officers should protect the scene and notify Communications.

61.4.3 Towing of Vehicles

Abandoned Vehicles

Abandoned vehicles (and abandoned junk vehicles) are addressed in the California Vehicle Code, Division 11, Chapter 10, Article 1. The authority to remove abandoned vehicles is outlined in Vehicle Code Section 22669.

Vehicle Code Section 22660 authorizes a city to enact an ordinance establishing an ordinance for the abatement and removal of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof, from public or private property, as a public nuisance. Pursuant to state law, the City Council has adopted an ordinance relating to this issue that is codified as Sections 10.10.010 through 10.10.150 of the Santa Clara City Code.

When a vehicle is suspected of being abandoned in violation of law, the information concerning the location and identification of the vehicle shall be forwarded to the Community Service Officers that are responsible for Abandoned Vehicle Abatement.

Employees are not to tow abandoned vehicles under the authority of California Vehicle Code Section 22651(o) (registration expired for more than six months) unless the vehicle is a late model vehicle, and there is likelihood that the vehicle will be reclaimed from the tow company. Allow these vehicles to be towed as abandoned by the Community Service Officers who use a different rotation list from the routine street tows utilized by patrol officers.

Illegally Parked Vehicles

An officer may remove an illegally parked vehicle when:

- It is parked in a position that is obstructing traffic or creating a traffic hazard;
- Any other reason addressed by law or City ordinance.

Stolen Vehicles

An officer shall tow and remove stolen vehicles when recovered on public or private property. An officer may release a stolen vehicle to the owner in the field when:

- There is no "hold" on the vehicle by the reporting agency;
- The owner can respond to the location of the vehicle in a timely manner.

Accident Tows

If the owner or other person having control of the vehicle is present and desires the police officer to secure a tow from a specific tow service, the officer will notify Communications and request the specific service asked for by the owner or driver.

If the owner or driver has no preference or is unavailable to give this information, the officer will request Communications to send a rotational tow truck.

All requests for non-preference tows will be filled by Communications from a rotating list. Officers shall not call the towing service by telephone or use a tow service that has not been called by Communications.

Impound Tows

All requests for tows for a vehicle being impounded as evidence shall be filled from the rotational list mentioned above. Vehicles held as evidence may be stored at the Vehicle Impound Building only if they conform to the following guidelines:

- Vehicle involved in a fatal or serious injury collision, and will require further investigation.
- When there is a need to establish the identification numbers or ownership of recovered stolen or suspected stolen vehicles.
- Vehicle is involved in a major felony investigation and there are containers of evidence and it necessitates a secure environment.

The authority to seize a vehicle, and impound it comes from *People vs. Curley* (1970) 90 Cal. Rptr 783, 12 C.A. 732, which states: "When a peace officer discovers an item he reasonably believes is potential evidence of a particular crime, and it's seizure appears necessary for it's preservation, he may seize the item without a warrant."

The authority to tow/impound should be listed as Article 1, Section 13, California Constitution.

Use of Impound Building

The vehicle impound building is the responsibility of the Field Operations Captain. Only the following persons have key access to the building:

61.4

- Field Operations Captain
- Dayshift Lieutenant
- Traffic Sergeants
- Hit and Run Investigators
- Fatal Collision Investigators
- Investigations Lieutenant
- Homicide Investigators
- Arson Investigators
- Auto Theft Investigators
- Crime Scene Evidence Investigators

Vehicles stored in the facility will be removed no later than ten (10) days after the initial date of storage. After that time, the vehicle will be released to the tow company that originally towed the vehicle.

Impound and Storage Hearings

Registered owners of towed vehicles have the right to contest the legality of the tow, and attempt to have towing fees waived. The appeal is held and decided by a Traffic sergeant.

Impound and Storage Records

Whenever a vehicle is towed, the reporting employee shall complete a CHP Form 180, which will be given to the Records Section for further processing.

The Records Section is responsible for all computer entries associated with towed vehicles. The Records Section will also send notification to the registered and legal owner(s) of the vehicle.

Vehicles Parked for Sale

Section 731 of the Streets and Highway Code provides authority to remove vehicles from a state highway (therefore this section applies only to the El Camino Real and the southern portion of The Alameda) when any vehicle is parked for sale, or selling any article or service there from, and is determined to be a nuisance.

When a vehicle is suspected of being parked in violation of Section 731, the information concerning the location and identification of the vehicle shall be forwarded to a Community Service Officer II responsible for enforcing parking violations. In the event a CSO II is not available, then a police officer shall respond.

Employees shall assess the parking complaint upon arrival at the scene. It shall be the discretion of the officer to validate whether the parked vehicle satisfies the nuisance requirement, and only then, unless directed otherwise by a field supervisor, may an officer order a vehicle towed from the scene. A nuisance may be determined by, but not limited to, any combination of the following conditions:

- Active selling, negotiations between buyer and seller
- On site vehicle inspections (open car doors, hoods, trunks)
- Roadway and/or sidewalk obstruction
- Recidivist violators
- The placement of a vehicle posted for sale is designed to take advantage of the location of nearby retail automotive sales businesses

Prior to ordering a vehicle towed, however, employees shall attempt contact with the vehicle owner, and request to have the vehicle moved. If located, the owner shall be directed to move the vehicle immediately, and be given a reasonable amount of time to do so. Responding officers will be responsible for proper follow-up to ensure that the vehicle is moved or towed.

All requests for vehicle tows will be filled by Communications Division from the rotation list. Officers will prepare the CHP 180 form and return it to Records Division for FCN updates.

61.4.4 Educational Material

Crime Prevention and the Traffic Division receive and disseminate material relevant to traffic education. Presentations are made to schools and local groups when requested. Flyers and informational material is also available in the front lobby of the Police Department.

61.4.5 Care of Vehicle when Driver is Arrested

Procedure

Under ordinary circumstances when the operator of a vehicle is arrested for a crime, not including driving under the influence, for driving without a drivers license or driving with a suspended drivers license or when the vehicle is not needed for evidence or investigation, the officer may, at the direction of the operator, park the car in a legal manner and lock it if possible, or release it to any responsible person the operator may direct.

If the vehicle is released, the arresting officer shall record in his report the person notified, his or her relationship to the arrested person, the time and date and what action such person stated should be taken.

If the arrested person insists on leaving the vehicle parked upon the street and in the officer's opinion the person is capable of making that decision, the vehicle should not be towed. A witness should be present to later verify this decision.

In driving under the influence cases, the vehicle may be stored at the discretion of the arresting officer based upon the circumstances of the case. Officers should consider before towing:

- The inability of the driver to make a valid decision.
- The availability of a competent person to take charge of the vehicle with the driver's permission.
- Value of the vehicle, property in the vehicle, or inability to secure the vehicle.

61.4

- Location of the vehicle, i.e., on private property or in an isolated or high crime area.

If the officer decides to store or impound the vehicle he/she shall complete a CHP 180-vehicle storage form. The inventory shall include a complete documentation of the contents of the vehicle.