



# Santa Clara Police

## Training Flash



### VEHICLE IMPOUNDS AND THE COMMUNITY CARETAKING DOCTRINE

#### LEGISLATIVE BACKGROUND

In 2019, the California Legislature amended Vehicle Code section 22650 to require that **any** removal of a vehicle must be to achieve a “community caretaking” need. It is no longer sufficient that one of the circumstances set forth in Vehicle Code section 22651 is present. There also **must** be a justification based on community caretaking, such as the need to ensure the safe flow of traffic or to protect property from theft or vandalism.

Previously, the Ninth Circuit in *Miranda* (9th Cir. 2005) 429 F. 3d 858, and the Court of Appeal in *Williams* (2006) 145 Cal. App. 4th 756, had determined that a separate, independent “community caretaking” justification was required for vehicle impounds in addition to the authority provided by statute.

#### VEHICLE CODE SECTION 22650(b)

“Any removal of a vehicle is a seizure under the Fourth Amendment of the Constitution of the United States and Section 13 of Article I of the California Constitution, and shall be reasonable and subject to the limits set forth in Fourth Amendment jurisprudence. A removal pursuant to an authority, including, but not limited to, as provided in Section 22651, that is based on community caretaking, is only reasonable if the removal is necessary to achieve the community caretaking need, such as ensuring the safe flow of traffic or protecting property from theft or vandalism.”

#### COMMUNITY CARETAKING CONSIDERATIONS

*The Williams* court listed the following considerations: Would the car be stolen, broken into, or vandalized where it was parked? Was it blocking a driveway or crosswalk? Did it pose a hazard or impediment to other traffic? (Quick (2016) 5 Cal. App. 5th 1006 – car parked 24 inches into the roadway was a traffic hazard.) Would leaving it there result in its immediate and continued unlawful operation by an unlicensed driver who could merely

return to the vehicle and drive away? (Williams (2006) 145 Cal. App. 4th 756, 762-763.) The United States Supreme Court has noted that the size and inherent mobility of cars make them susceptible to theft and vandalism. (Chadwick (1977) 433 U.S. 1, fn. 7.)

## **CASE LAW EXAMPLES**

An Oregon officer was **not** allowed to rely on department policy or a city ordinance permitting vehicle tows whenever a driver is cited for unlicensed driving. Because the driver had parked the car in her own driveway, the rationale for permitting an impound – “community caretaking” – did not apply. (*Miranda* (9th Cir. 2005) 429 F. 3d 858; see *Cervantes* (9th Cir. 2012) 703 F. 3d 1115 – same result even though car was not close in proximity to the driver’s house.)

Fresno Sheriff’s Office impounded a truck after citing the driver for driving an unregistered vehicle on a suspended license. The truck was parked in a convenience store parking lot at the time of the impound. **HELD:** The impound was justified under the “community caretaking” doctrine. The truck was in a commercial parking lot, and “the Department’s decision to impound plaintiff’s truck promoted public safety by preventing the truck from being operated on public highways and streets while it remained unregistered.” (*Halajian* (2012) 209 Cal. App. 4th 1, 15-16; accord, *Jensen* (9th Cir. 2005) 425 F. 698, 706 – lawful impound where vehicle parked in the road with reasonable concerns about vandalism; *Hallstrom* (9th Cir. 1993) 991 F.2d 143, 1478 – towing protected the car from vandalism or theft.)

Santa Monica police stopped Williams for driving without a seatbelt. Williams happened to be near his residence and legally parked his rental car along the curb in response to the officer’s overhead lights. The officer obtained Williams’ license and learned that he was subject to an outstanding arrest warrant. The officer arrested Williams, impounded the car pursuant to Vehicle Code section 22651, subdivision (h), and searched it prior to towing. **HELD:** The impound of a car lawfully parked outside the driver’s residence was unlawful absent evidence that impounding the car served any “community caretaking” function. (*Williams* (2006) 145 Cal. App. 4th 756, 763.)

## **VEHICLE INVENTORY**

Both before and after the 2019 amendment to 22650 V.C., conducting an investigatory search for criminal wrongdoing will not qualify as a valid “community caretaking” purpose. Impounds and inventories are interconnected in terms of their legitimacy. An inventory “conducted pursuant to an unreasonable impound is itself unreasonable.” (Williams (2006) 145 Cal. App. 4th 756, 761.)

## **DOCUMENTATION**

The community caretaking reason for a vehicle impound ***should*** be documented in the report and/or CHP 180 form. A vehicle inventory should be documented by articulating the Department's inventory policy and that the inventory was conducted pursuant to that policy.

**Training Flash:** 2020-01

**Distribution:** PD All **X** Patrol **X** Bureau **X** Services **X** K:TrainingDocuments

Reviewed By:

 AID  
Page 2 of 2