**OFFICE OF THE CHIEF OF POLICE**

**SPECIAL ORDER NO. 7** **April 10, 2012**

**APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON FEBRUARY 28, 2012**

**SUBJECT: COMMUNITY CARETAKING DOCTRINE AND VEHICLE IMPOUND PROCEDURES - ESTABLISHED**

**EFFECTIVE: APRIL 22, 2012**

**PURPOSE:** The California State Legislature continues to recognize that driving a motor vehicle is a privilege and not a right, as delineated in Section 14607.4 of the California Vehicle Code (VC). This Order establishes the procedures for impounding vehicles from unlicensed drivers, and drivers with suspended or revoked licenses encountered in the field, at the scene of traffic collisions and at driving under the influence (DUI) checkpoints. In addition, this Order provides guidance regarding the enforcement of VC Sections 22651(p) "Unlicensed Driver," and 14602.6(a)(1) "30-Day Holds," and guidance on how to apply the "Community Caretaking Doctrine." However, this Order is not intended to preclude officers from impounding vehicles for non-license violations by using appropriate statutory authority. This Order establishes Section 4/222.05, *Community Caretaking Doctrine and Vehicle Impound Procedures*, to the Department Manual.

**PROCEDURE:** Various sections of the California Vehicle Code authorize the impoundment of a motor vehicle driven by an unlicensed driver or a driver with a suspended or revoked driver's license. However, State and federal court decisions have held that the statutory authority to impound, alone, does not determine the constitutional reasonableness of the seizure under the Fourth Amendment of the United States Constitution. In evaluating the reasonableness of warrantless vehicle impounds, courts have focused on whether the impoundment was in accordance with the Community Caretaking Doctrine. Consequently, this Order clarifies the application of the Community Caretaking Doctrine and establishes the Department's impound procedures.

I. **COMMUNITY CARETAKING DOCTRINE OVERVIEW.** Officers shall be guided by the Community Caretaking Doctrine and the procedures set forth in this Order when deciding whether to impound a vehicle driven by an unlicensed driver, or a driver with a suspended or revoked license. The courts have ruled that this doctrine allows officers to impound a vehicle when doing so serves a community caretaking function. An impoundment based on the Community Caretaking Doctrine is likely warranted:

* When the vehicle is impeding traffic or jeopardizing public safety and convenience, such as when a vehicle is disabled following a traffic collision;
* When the vehicle is blocking a driveway or crosswalk or otherwise preventing the efficient movement of traffic (e.g., vehicle, pedestrian, bicycle);
* When the location of the stopped vehicle may create a public safety hazard (e.g., vehicle, pedestrian, bicyclist);
* When the location of the vehicle, if left at the location, may make it a target for vandalism or theft; or,
* To prevent the immediate and continued unlawful operation of the vehicle (e.g., licensed driver not immediately available).

The totality of circumstances, including the factors listed above, should be considered when deciding whether impoundment is reasonable under the Community Caretaking Doctrine and the Fourth Amendment. The decision to impound any vehicle must be reasonable and in furtherance of public safety.

## II. UNLICENSED DRIVER AND DRIVER WITH A SUSPENDED/REVOKED LICENSE IMPOUND AUTHORITIES.

**A. Unlicensed Driver - No Priors.** Section 22651(p) VC shall be used as the impound authority for all vehicles being impounded when it has been determined that the driver was involved in the following and the officer issues a Traffic Notice to Appear citation, Form 04.50.00:

* Driving without a valid California Driver's License (unless the driver is a nonresident with a valid license or otherwise exempt under the Vehicle Code); or,
* Driving with an expired, withheld, or out-of-class California Driver's License.

Officers shall release the vehicle in lieu of impound provided **all** of the following conditions are met:

* The registered owner or his/her designee has a valid California Driver's License or is a nonresident with a valid license or otherwise exempt under the Vehicle Code;
* The registered owner and licensed driver are immediately available;

* The registered owner authorizes the licensed driver to drive the vehicle; and,
* The vehicle's registration is not expired over six (6) months.

**Note:** If the traffic stop is conducted in the registered owner's residential driveway or a legal parking space in the immediate vicinity of the owner's residence, impounding the vehicle **would not** be appropriate. However, if the traffic stop is conducted in the driver's residential driveway or in the immediate vicinity of the driver's residence but the driver is not the registered owner, officers must consider the totality of the circumstances to determine if impoundment is reasonable.

The name and driver's license number of the licensed driver that the vehicle is being released to shall be documented in the narrative portion of the Traffic Notice to Appear that is issued to the unlicensed driver. If it is determined that the registered owner knowingly allowed an unlicensed driver to operate the vehicle, he or she may be cited for Section 14604(a) VC, "Non-Owner Driver of Vehicle."

When the vehicle cannot be released to a licensed driver, the vehicle shall be impounded pursuant to Section 22651(p) VC or, if the vehicle's registration is expired over six (6) months, pursuant to Section 22651(o) VC, to prevent the immediate and continued unlawful operation as warranted under the Community Caretaking Doctrine. The Official Police Garage (OPG) tow should be requested when it is determined that the vehicle cannot be released.

**Note:** If it is determined that the vehicle will be impounded, use impound authority Section 14602.6(a)(1) VC (30-Day Hold) if **all** of the following conditions are met:

* The driver has never been issued a driver's license by any jurisdiction (foreign or domestic); **and**,
* The driver is unable to show proof of insurance **or** at-fault in the traffic collision **or** lacks proof of identification.

The reason to impound the vehicle shall not be based on whether the vehicle is properly insured.

**B. Unlicensed Driver - With Prior(s).**
Section 14602.6(a)(1) VC (30-Day Hold) shall be used as the impound authority when it has been determined that the driver has never been issued a driver's license by any jurisdiction (foreign or domestic) **and** has a prior misdemeanor conviction, failure to appear, or warrant for Section 12500(a) VC.

> **Note:** Section 22651(p) VC shall always be used as the impound authority if it has been determined that the driver has an expired, withheld or out of class driver's license and has a prior misdemeanor conviction, failure to appear, or warrant for 12500(a), 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 VC.

If the driver is the registered owner and has a prior **misdemeanor conviction**: Officers shall document in the "Remarks" or "Narrative" section of the impound Vehicle Report, CHP 180 form, that the vehicle is eligible for vehicle forfeiture as delineated in Section 14607.6 VC, except if the driver's license expired within the preceding 30 days, then no such notation shall be made.

**C. Driver with Suspended/Revoked License - No Priors.**
Section 14602.6(a)(1) VC (30-Day Hold) shall be used as the impound authority for all vehicles being impounded when it has been determined that the driver was involved in any of the following:

* Driving with a suspended or revoked license; or,
* Driving with a restricted license pursuant to Sections 13352 or 23575 VC, and the vehicle is not equipped with a functioning, certified interlock device.

Officers shall release the vehicle in lieu of impound provided **all** of the following conditions are met:

* The registered owner or his/her designee has a valid California Driver's License or is a nonresident with a valid license or is otherwise exempt under the Vehicle Code;
* The registered owner and licensed driver are immediately available;
* The registered owner authorizes the licensed driver to drive the vehicle; and,
* The vehicle's registration is not expired over six (6) months.

**Note:** If the traffic stop is conducted in the registered owner's residential driveway or a legal parking space in the immediate vicinity of the owner's residence, impounding the vehicle **would not** be appropriate. However, if the traffic stop is conducted in the driver's residential driveway or in the immediate vicinity of the driver's residence but the driver is not the registered owner, officers must consider the totality of the circumstances to determine if impoundment is reasonable.

Officers impounding a vehicle under Section 14602.6(a)(1) VC shall either effect a custodial arrest of the driver or issue a Traffic Notice to Appear citation in the field. Vehicles impounded under this Section shall be impounded for 30 days, unless earlier release is authorized by the Area Auto detectives in accordance with Section 14602.6 VC.

The name and driver's license number of the licensed driver that the vehicle is being released to shall be documented in the narrative portion of the Traffic Notice to Appear that is issued to the unlicensed driver. If it is determined that the registered owner knowingly allowed an unlicensed driver to operate the vehicle, he or she may be cited for Section 14604(a) VC, "Non-Owner Driver of Vehicle."

D. **Driver with Suspended/Revoked License - With Prior(s).** Section 14602.6(a)(1) VC (30-Day Hold) shall be used as the impound authority for all vehicles being impounded when it has been determined that the suspended/revoked/restricted violator has a prior misdemeanor conviction, failure to appear, or warrant for Sections 12500(a), 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 VC.

**Note:** If the driver is the registered owner and has a prior **misdemeanor conviction:** Officers shall document in the "Remarks" or "Narrative" section of the impound Vehicle Report, that the vehicle is eligible for vehicle forfeiture as delineated in Section 14607.6 VC.

## III. MISCELLANEOUS IMPOUNDS.

**A. Impounding Vehicles Driven by Habitual Driving Under the Influence Offenders.** Section 14602.8(a)(1) VC authorizes an officer to impound a vehicle from a driver when it is determined that a person has been convicted of Section 23140 VC, Juvenile Driving Under the Influence of Alcohol; 23152 VC, Driving Under the Influence of Drugs or Alcohol; or 23153 VC, Causing Bodily Injury While Driving Under the Influence of Drugs or Alcohol, within the past 10 years **and** one or more of the following circumstances applies.

The officer shall immediately cause the removal and seizure of the vehicle that such a person was driving, under either of the following circumstances:

* The person was driving a vehicle with a blood alcohol content of 0.10 percent or more; or,
* The person driving the vehicle refused to submit to or complete a chemical test.

A vehicle impounded pursuant to the aforementioned section shall be impounded for one of the following time periods:

* 5 Days - If the person has been convicted once for violating Sections 23140, 23152 or 23153 VC, and the violation occurred within the preceding 10 years; or,
* 15 Days - If the person has been convicted two or more times for violating Sections 23140, 23152 or 23153 VC or any combination thereof, and the violations occurred within the preceding 10 years.

The vehicle shall be released to the registered owner or his or her designee prior to the end of the impoundment period only under conditions set forth in Section 14602.8(d) VC.

**B. Citing or Arresting Unlicensed Drivers at Traffic Collision Scenes and Related Vehicle Impounds.** For an unlicensed driver or driver with a suspended/revoked license at traffic collision scenes, the appropriate impound authority or release-at-scene protocol shall be utilized in accordance with Section II in this Order.

A driver involved in a traffic collision may be cited or placed under custodial arrest when the officer determines that the involved vehicle was operated by an unlicensed driver or a driver whose driving privilege was suspended or revoked.

The officer's determination shall be based upon witnesses' statements, a driver's admission and/or physical evidence. The related impound Vehicle Report shall contain the following:

* A full narrative listing all of the information/ elements to establish the driver's offense; and,
* Names, addresses, telephone numbers and statements of witnesses that can establish the driver operating the vehicle.

If the traffic collision results in injuries, officers shall complete the Traffic Collision Report, CHP 555 form. However, if the traffic collision does not result in injuries and one of the parties is unlicensed, a Traffic Collision Report **shall not** be completed. The officer shall ensure an exchange of information is completed between the involved parties. Officers shall issue a Traffic Notice to Appear citation to the unlicensed driver and document the name, address and telephone number of the witnessing party or parties on the back of the "Golden Rod" copy of the issuing officer's Traffic Notice to Appear citation.

If the violator challenges the citation during a subsequent court proceeding, the issuing officer shall be responsible for contacting the witnessing parties and requesting their attendance in court.

When the unlicensed driver does not possess valid identification, officers shall advise the other involved party of the option to effect a private person's arrest. When a private person's arrest is made, officers shall indicate a charge of Section 12500(a) VC or 14601(a) VC, or other appropriate VC section(s) for driving when the privilege is suspended or revoked.

C. **Impounding Vehicles at Driving Under the Influence Checkpoints.** The following procedures apply if the driver's only offense is a violation of Section 12500 VC, even if the driver has a prior misdemeanor conviction, failure to appear, or warrant for 12500 VC. Officers shall make a reasonable attempt to identify the registered owner of the vehicle driven by an unlicensed driver. When the registered owner is present or able to respond to the scene prior to the conclusion of the DUI checkpoint operation, or the officer is able, without delay, to identify the registered owner and obtain his/her authorization to release the vehicle to a licensed driver at the scene, the vehicle shall be released to either the registered owner or the authorized licensed driver provided the following conditions are met:

* The registered owner or his/her designee has a valid California Driver's License or is a nonresident with a valid license or is otherwise exempt under the Vehicle Code; and,
* The registered owner authorizes the licensed driver to drive the vehicle.

The name and driver's license number of the licensed driver the vehicle is being released to shall be documented in the narrative portion of the Traffic Notice to Appear citation issued to the violator.

When the vehicle cannot be released to the registered owner or his or her designee, officers shall impound the vehicle under the authority of Section 22651(p) VC.

When the violator has a suspended or revoked driver's license, officers shall impound or release the vehicle as outlined in Section II "Unlicensed and Suspended/Revoked Driver Impound Authorities" of this Order.

D. **Impounding Vehicles When the Driver is Arrested.** Section 22651(h)(1) VC authorizes an officer to impound a vehicle from a driver who has been arrested and taken into physical custody. However, as noted in Section I of this Order, officers must also determine if the totality of the circumstances supports impoundment of the vehicle under the Community Caretaking Doctrine.

When a driver is arrested, the vehicle **should not** be impounded under the following circumstances:

* If the arrestee is the registered owner and the vehicle is parked in the arrestee's residential driveway or a legal parking space in the immediate vicinity of the arrestee's residence;
* If the vehicle is parked in a legal parking space where it is not posing a traffic hazard and is not likely to be a target of vandalism or theft; or,
* If a licensed passenger is present and not impaired or otherwise unable to lawfully operate the vehicle and is given permission by the registered owner.

**Note:** In situations other than those above, when community caretaking warrants impoundment, Section 22651(h)(1) VC shall be used as the impound authority. If the driver arrested has prior DUI convictions, officers shall be guided by Section 14602.8(a)(1) VC.

Attached is the Vehicle Impound Chart, Form 15.23.06.

**FORM AVAILABILITY:** The Vehicle Impound Chart is available in LAPD E-Forms on the Department's Local Area Network (LAN). A copy of the form is attached for immediate use and duplication.

**AMENDMENT:** This Order adds Section 4/222.05 to the Department Manual.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Internal Audits and Inspections Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

CHARLIE BECK
Chief of Police

Attachment

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# Los Angeles Police Department Vehicle Impound Chart

## Community Caretaking Doctrine

Officers shall be guided by the Community Caretaking Doctrine and the Department's vehicle impound procedures. The decision to impound any vehicle should be based on the totality of circumstances and must be reasonable and in furtherance of public safety. The following are a few examples of when a vehicle may be impounded based on the Community Caretaking Doctrine:

- When the vehicle is impeding traffic or jeopardizing public safety and convenience;
- When the vehicle is blocking a driveway or crosswalk or otherwise preventing the efficient movement of traffic (vehicle, pedestrian, bicycle);
- When the location of the stopped vehicle may create a public safety hazard (e.g., vehicle, pedestrian, bicycle);
- When the location of the vehicle, if left at the location, may make it a target for vandalism or theft; or,
- To prevent the immediate and continued unlawful operation of the vehicle.

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| **Unlicensed Driver No prior(s)**<br><br>* Driving without a valid California Driver's License (CDL), unless the driver is a non-resident with a valid license or otherwise exempt under the California Vehicle Code (VC). (Issue citation or effect a custodial arrest)<br><br>* Driving with an expired CDL. (Issue citation)<br>* Driving with an "withheld" CDL. (Issue citation)<br>* Driving with an out-of-class CDL. (Issue citation) | **Release vehicle.** Officers shall release the vehicle in lieu of impound if:<br><br>1. The R/O or his/her designee has a valid driver's license, is **IMMEDIATELY AVAILABLE**, **AND** the vehicle registration is not expired over 6 months, **OR,**<br><br>**Note:** Write the name and driver's license number of the person the vehicle is being released to on the narrative portion of the traffic citation.<br><br>2. The vehicle is stopped in the R/O's residential driveway or legal parking space in the immediate vicinity of R/O's residence. (If the driver is not the R/O, officer must consider totality of circumstances to determine if impoundment is reasonable.)<br><br>**Impound Vehicle:**<br>• If the vehicle cannot be released based on the above, impound as follows:<br>➢ Never been issued driver's license (foreign or domestic) **AND** any of the following: No insurance **OR** at fault in a traffic collision **OR** lacks proof of identification = 14602.6(a)(1) VC (30-day hold).<br>➢ Never been issued driver's license (foreign or domestic) **AND** has insurance **AND** satisfactory identification **AND** not at fault in a traffic collision = 22651(p) VC.<br>➢ Driving with an expired, withheld, or out-of-class CDL = 22651(p) VC. |
| **Unlicensed Driver With prior(s)**<br><br>Driver has **never** been issued a driver's license (foreign or domestic) **AND** has prior misdemeanor conviction, failure to appear, or warrant for 12500(a) VC. (Issue citation or effect a custodial arrest) | **Impound Vehicle:**<br>• Use Section 14602.6 (a)(1) VC, 30-Day Hold as the impound authority.<br>• If prior misdemeanor **conviction**, document vehicle subject to forfeiture, per Section 14607.6 VC, in impound report. |
| Driver has **expired, withheld, or out-of-class** CDL **AND** has a prior misdemeanor conviction, failure to appear, or warrant for 12500(a), 14601, 14601.1, 14601.2, 14601.3, 14601.4 or 14601.5 VC. (Issue a citation) | **Impound Vehicle:**<br>• Use Section 22651(p) VC as the impound authority.<br>• If prior misdemeanor **conviction**, document vehicle subject to forfeiture, per Section 14607.6 VC, in the impound report. |
| **Suspended/Revoked Driver's License No prior(s)**<br><br>* Driving with a suspended or revoked CDL.<br>* Driving with a restricted CDL pursuant to Section 13352 or 23575 VC and the vehicle is not equipped with a functioning certified interlock device.<br><br>(Issue a citation or effect a custodial arrest) | **Release vehicle.** Officers shall release the vehicle in lieu of impound if:<br><br>1. The R/O or his/her designee has a valid driver's license, is **IMMEDIATELY AVAILABLE**, **AND** the vehicle registration is not expired over 6 months, **OR,**<br><br>**Note:** Write the name and driver's license number of the person the vehicle is being released to on the narrative portion of the traffic citation.<br><br>2. The vehicle is stopped in the R/O's residential driveway or legal parking space in the immediate vicinity of R/O's residence. (If the driver is not the R/O, officer must consider totality of circumstances to determine if impoundment is reasonable)<br><br>**Impound Vehicle:**<br>• If the vehicle cannot be released based on the above, impound as follows:<br><br>➢ Use Section 14602.6(a)(1) VC, 30-Day Hold, as the impound authority. |
| **Suspended/Revoked Driver's License With prior(s)**<br><br>* Driving with a suspended or revoked CDL.<br>* Driving with a restricted CDL pursuant to Section 13352 or 23575 VC and the vehicle is not equipped with a functioning certified interlock device.<br><br>**AND** has prior misdemeanor conviction, failure to appear, or warrant for 12500(a), 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 VC. (Issue a citation or effect a custodial arrest) | **Impound Vehicle:**<br><br>• Use Section 14602.6(a)(1) VC, 30-Day Hold as the impound authority.<br><br>• If the driver is the R/O and has a prior misdemeanor **conviction**, document vehicle subject to forfeiture, per Section 14607.6 VC, in the impound report. |

# Los Angeles Police Department Vehicle Impound Chart

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| **Unlicensed Driver or Suspended/Revoked Driver at T/C Scenes**<br><br>Unlicensed driver or driver with a suspended/revoked driver's license at scene of T/C **with injuries & without injuries.** | **Release Vehicle:**<br><br>Release the vehicle according to the appropriate Unlicensed Driver or Suspended/Revoked Driver's License sections.<br><br>**Impound Vehicle:**<br><br>• If the vehicle cannot be released, impound the vehicle according to the appropriate Unlicensed Driver or Suspended/Revoked License section listed above.<br><br>• Document the following in the impound narrative:<br><br>➢ Information/elements to establish the driver's offense; and name, address, telephone number & statements of witnesses that can establish the driver operating the vehicle. |
| **When the Driver is Arrested**<br><br>Driver who is arrested for offenses other than driver's license offenses and taken into physical custody. | **Release vehicle:**<br><br>• If the arrestee is the registered owner and the vehicle is parked in the arrestee's residential driveway or legal parking space in the immediate vicinity of the arrestee's residence; **OR**<br>• If the vehicle is parked in a legal parking space where it is not posing a traffic hazard and is not likely to be a target of vandalism or theft; **OR**<br>• If a licensed passenger is present and not impaired or otherwise unable to lawfully operate the vehicle and is given permission by the registered owner.<br><br>**Impound Vehicle:**<br><br>• Determine if the totality of the circumstances supports impounding the vehicle under the Community Caretaking Doctrine.<br>• Use Section 22651(h)(1) VC as the impound authority. |
| **Habitual DUI Offenders**<br><br>Driver was convicted of Section 23140, 23152 or 23153 VC within the past 10 years **AND** one of the following:<br><br>* The person was driving a vehicle with a blood alcohol level of 0.10 percent or more; or,<br>* The person driving the vehicle refused to submit to, or complete a chemical test. | **Impound Vehicle:**<br><br>• Use Section 14602.8(a)(1) VC as the impound authority and hold the vehicle for one of the following time periods:<br><br>➢ 5 days - If the person has been convicted once for violating Section 23140, 23152, or 23153 VC, within the preceding 10 years; or,<br>➢ 15 days - If the person has been convicted two or more times of violating Sections 23140, 23152, or 23153 VC, or any combination thereof, within the preceding 10 years. |
| **DUI Checkpoints**<br><br>Unlicensed drivers (with or without priors) at a DUI checkpoint<br>(Section 12500 VC is driver's **only Offense**). | **Release vehicle:**<br><br>• If R/O or R/O's designee is present or able to respond prior to conclusion of the checkpoint, or the officer is able, without delay, to identify the registered owner to obtain his/her authorization to release the vehicle, release vehicle to the R/O or his/her designee if **ALL** of the following conditions are met:<br><br>1. R/O or R/O's designee has a valid driver's license; and,<br>2. R/O authorizes licensed driver to drive vehicle.<br><br>**Note:** If a traffic citation is issued, write the name and driver's license number of the licensed driver that the vehicle is being released to on the narrative portion of the traffic citation.<br><br>**Impound Vehicle:**<br><br>• If the vehicle cannot be released, use Section 22651(p) VC as the impound authority. |
| Driver with suspended/revoked driver's license at a DUI checkpoint. | **Officers shall release or impound the vehicle according to the appropriate Suspended/Revoked Driver's License section listed in the chart.** |