

VEHICLES SEIZED, IMPOUNDED AND TOWING

STANDARD NO(S):

NYSLEAP 47.8

DATE:

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REFER TO:

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I. OBJECTIVE:

To establish procedures for the removal, towing and legal retention of vehicles from the roadways or private property within Seneca County.

II. POLICY:

In consideration of the legal duty and responsibility which befalls the SCSO when assuming control over a vehicle belonging to another, and recognizing that the impoundment of such vehicle is a temporary custodial measure, it shall be the policy of the SCSO that vehicles so obtained be towed and/or impounded in a manner which insures the security and least deterioration until lawful disposition is made.

III. DETAILS:

A. CUSTODY – The New York State Laws provide some specific guidance to law enforcement agencies regarding those situations in which a police officer may take custody of and remove a motor vehicle. A vehicle may be towed and/or impounded when it is pertinent to:

1. A civil action which has directed its seizure in satisfaction of:
 - a. A property execution after judgment by a court of competent jurisdiction, or;
 - b. An Order of Seizure (Replevin) by a court (used to test the right to possess specific property) or;
 - c. An Order of Attachment by a court (used to hold property to answer any possible money judgment).
2. Evidence, as the fruit or instrumentality of a crime. See “**Collection, Preservation & Disposition of Evidence**”, this manual.

3. An on-going investigation, such as a motor vehicle accident which has resulted in a fatality or an incapacitating injury to its sole occupant; or an investigation into the cause and origin of a vehicle fire.
4. Enforcement of any of the provisions of the Vehicle & Traffic Law as they pertain to:
 - a. Section 511-b, “Seizure and Redemption of Unlawfully Operated Vehicles”,
 - b. Section 1192, “Operating a Motor Vehicle While Under the Influence of Alcohol or Drugs”, or,
 - c. Section 1224, “Abandoned Vehicles”.
5. The lawful arrest of a person who is in possession of such vehicle for which no other provision can be made.
6. An incident requiring its safekeeping under special circumstances, such as the natural death of the operator in a public place.

B. NOTIFICATIONS –

1. In addition to those sections of the Vehicle & Traffic Law mentioned above, Section 424, “Stolen Motor Vehicles”, provides for the notification of an owner in accordance with 15 NYCRR (Codes, Rules and Regulations of the State of New York) Section 18.4(d)(1). Section 18.4(d) (1) provides for the notification of any lien holder.
 - a. Notwithstanding these provisions, it shall be the responsibility of the member who has investigated the matter, or who has undertaken to assume control of a vehicle, to use all expeditious means to insure that the rightful owner is not deprived of his property any longer than is absolutely necessary. Efforts taken in this regard shall be documented and made part of the case file.
2. If circumstances indicate that impoundment is not appropriate, and the owner or other interest holder can be contacted, that person (or institution) should be given the opportunity to determine the method of recovery.
 - a. If the vehicle is drivable, the owner or other interest holder may wish to respond, in which case the vehicle may be released after processing and inventory.
 - b. If the vehicle is not drivable, the owner or other interest holder may request a specific towing service or repair service, or may make other arrangements if the vehicle does not need to be removed immediately.

SCSO members must refrain from making any recommendations for the use of a particular towing/repair service.

C. TOWING –

1. The procedures for arranging for a vehicle to be towed are the same as those set out under “**Assistance to Motorists**”, this manual, except that the motorist has not participated in the decision to remove the vehicle. Therefore, once the member has determined that a vehicle must be towed, contact will be made with the E-911 to contact the next rotational towing service.
2. The officer handling the matter will note in his SJS report the following information whenever a vehicle is towed and/or impounded:
 - a. Date and complaint number;
 - b. Name and address of owner;
 - c. Vehicle year, make, VIN # and plate registration;
 - d. Location where secured (towing service name);
 - e. Was the owner the operator;
 - f. Officer seizing vehicle;
 - g. The reason for the tow or impoundment and any special instructions or holds placed on the vehicle by the member.
3. When, upon the order of a member, a vehicle is towed for reasons of highway safety or because of a violation which renders it illegal for use on the road (such as registration, insurance, or license plates), but it is not impounded as a seizure or for further investigation, the vehicle will remain in the custody of the towing service.
 - a. In the above circumstance, to regain possession of his vehicle, the owner must prove that his vehicle is in compliance with the law and must satisfy any obligation he has incurred for towing costs. To insure compliance, the member shall instruct the towing agency not to release the vehicle until proof of compliance on the reason for the tow is produced or unless the owner plans on moving the vehicle by towing it legally to another location and towing charges have been taken care of.

D. PRIVATE PROPERTY –

1. Officers are not authorized to call a tow truck to tow a vehicle off of private property, unless there are special circumstances involved, such as the vehicle was involved in a crime or other valid reason.
2. Without special circumstances the property owner will be advised that they can call for a tow truck to tow any vehicle from their property if they haven't authorized it to be there

E. IMPOUNDED VEHICLES – MEMBER RESPONSIBILITIES -

1. As with any personal property found in the possession of an arrested person at the time of his arrest, the SCSO incurs a special duty for the safe-keeping and disposition of an arrestee's vehicle when impounded by the SCSO.

At the scene of the impound the member ordering the impound will:

- a. Conduct a complete inventory of the contents of an impounded vehicle utilizing the “**Inventory of Impounded Vehicle**” form (SCSO-LE-032). Members are urged to use extreme diligence when conducting an impounded vehicle inventory to prevent any claims against themselves or the SCSO. This form, when completed, will be submitted to the tow truck operator for review and signature and will serve as notice that the tow service has received the contents of the vehicle as indicated on the Inventory of Impounded Vehicle form. Any property seized as evidence from the vehicle to be impounded will be noted on the Property Receipt/Evidence Log & Tracking Form and not listed on the Impound Inventory Form.
 - b. Complete a “**TOWED/IMPOUNDED VEHICLE TAG**”, the original of which will be placed on the inside of the windshield showing the complaint report number, date vehicle impounded and/or towed, reason for impounding and/or towing, license plate and VIN number, brief description of the vehicle, location of vehicle and conditions of release which will remain with the vehicle while impounded.
2. Notify the E-911 Center of impound –

Anytime a vehicle has been impounded by the SCSO, an entry must be made into the appropriate file in the New York State Police Information Network (NYSPIN), an on-line system which will permit an inquiry concerning the location of an impounded vehicle from any police agency in New York State. The member ordering the vehicle impound, in addition to the requirements in subsections (a) and (b) of this section, will:

- a. Immediately notify the E-911 center of the impound by radio or phone, noting the date, time and E-911 Center dispatcher receiving such notification
 - b. The impounding officer will deliver or fax a copy of the “Towed/Impounded Vehicle Tag” to the Seneca County E-911 Center and retain the facsimile receipt as evidence of such impound notification to the E-911 Center, if applicable.
 - c. The impounding officer will request from the E-911 Center a copy of the NYSPIN teletype entry concerning the impounded vehicle.
3. SJS REPORTING REQUIREMENTS – The member ordering such impound will complete all appropriate sections of the SJS Vehicle Screen identifying the vehicle as being impounded by the member and will note in the case narrative section that:
- a. The reason for the vehicle impoundment
 - b. That an Inventory of Impounded Vehicle form was completed and signed by the tow truck operator.
 - c. That a Towed/Impound tag was placed in the vehicle
 - d. That the E-911 Center was notified – noting the date, time and dispatcher so notified.
 - e. That a copy of the Towed/Impound Tag was delivered or faxed to the E-911 Center
 - f. That a copy of the NYSPIN teletype entry has been attached to the Impounded Vehicle Inventory Form and Towed/Impounded Tag and filed in the folder marked “ACTIVE SCSO IMPOUNDS” located in the file drawer marked “SCSO IMPOUNDED VEHICLES” located in the Sergeants Office.
 - g. Any special instructions governing the release of such impound.
4. DOCUMENT TRACKING & QUALITY CONTROL – The member ordering such impound will place the following documents stapled together in the file folder marked “ACTIVE SCSO IMPOUNDS” located in the file cabinet marked “SCSO IMPOUNDED VEHICLES” in the Road Patrol Sergeants Office at the LEC.
- a. Original completed Impounded Vehicle Inventory Form
 - b. Copy of Towed/Impound Tag

- c. Copy of facsimile receipt of E-911 Center notification, if applicable.
- d. Copy of NYSPIN teletype entry of impounded vehicle

F. RESPONSIBILITIES OF SCSO IMPOUND OFFICER – ACTIVE IMPOUNDS -

1. During each tour of duty, the SCSO Impound Officer will review for completeness and quality control all records relating to active current vehicle impounds of the SCSO until such vehicle is lawfully released from impound. Such review should include ensuring that all required documents relating to such impound identified in Section(s) III,E,(4)(a-d) are included.
2. Review the SJS case file entry associated with such impound to ensure that all requirements identified in Section III, E (3) (a-g) are complied with.

G. RELEASE OF IMPOUNDED VEHICLES - MEMBER RESPONSIBILITIES -

1. Before any vehicle is released from any SCSO authorized impound, the SJS case report will be queried for any special instructions concerning holds or conditions of release. If no such holds or conditions exist, such release must be approved by a supervisor. The members releasing such vehicle from an SCSO impound will:
 - a. Fully complete a “Release of Impounded Vehicle” form (SCSO-LE-033.).
 - b. Contact the impound towing service to advise of the imminent release of such impound and note the date, time and impound towing service employee advised of such release in the space provided on the “Release of Impounded Vehicle” form.
 - c. Fax a copy of the Release of Impounded Vehicle form to the impound towing service and retain a copy of the facsimile receipt and attach such receipt to the Release of Impounded Vehicle Form as evidence of such notification.
 - d. Fax a copy of the Release of Impounded Vehicle form to the E-911 Center for cancellation of the Vehicle Impound from the NYSPIN system. The releasing member will retain a copy of the facsimile receipt and request the E-911 Center forward a copy of such impound vehicle cancellation teletype to be attached to the Release of Impounded Vehicle Form.

2. DOCUMENT TRACKING & QUALITY CONTROL – The member ordering the RELEASE OF such impound will place the following documents stapled together in the file folder marked “RELEASED SCSO IMPOUNDS” located in the file cabinet marked SCSO IMPOUNDED VEHICLES in the Road Patrol Sergeants Office at the LEC.
 - a. Release of Impounded Vehicle Form
 - b. Facsimile receipt(s) of release notification to:
 - i. E-911 Center, if applicable
 - ii. Impounded towing service
 - c. Copy of E-911 Center NYSPIN cancellation teletype

H. RESPONSIBILITIES OF SCSO IMPOUND OFFICER – RELEASED IMPOUNDS -

1. During each tour of duty, review for completeness and quality control all records relating to released vehicle impounds. Such review will include ensuring that all required documents relating to such released impounds identified in Section(s) III,G,(2)(a-c) are included.
2. The SCSO Impound Officer will report the following in the SJS case file narrative (do not report in case notes) in connection with the impound.
 - a. That the impounded vehicle was released from impound
 - b. Upon whose authority was such release authorized
 - c. That a Release of Impounded Vehicle form was completed and the impound towing service was notified citing the date, time and employee receiving such notification
 - d. That the E-911 center was notified to cancel such NYSPIN impound and that a copy of such cancellation notice is attached to the impound documents.
3. The impound officer will submit to the Records Division all records associated with the initial impound and release of such impound to be filed with the official case file.

I. IMPOUNDMENT – SCSO secured impound lot

Once a determination has been made to take custody and hold a vehicle, it must be removed to an assigned impound lot. A vehicle may be impounded at the SCSO impound area located at the Seneca County Law Enforcement Center for

any reason including processing for evidence. The rotational impound agency will deliver the vehicle to SCSO, where it will be secured in the SCSO impound lot and processed in a timely fashion.

1. The procedures surrounding an impound at the SCSO will be the same as outlined in the aforementioned sections of this policy, UNLESS the required inventory of the impounded vehicle would destroy or alter valuable evidence prior to processing in which case the required inventory will not be performed until after the impounded vehicle has been processed. If the required inventory is not completed prior to processing, the member will note same in the SJS entry in connection with the impound.
2. In all cases where a vehicle is impounded at the LEC, it must be logged on the Vehicle Impound Lot Log located in the CID File/Copy Room. All vehicles secured in the SCSO impound lot must be noted on this log.
3. Vehicles stored on a long time basis, which are impounded in connection with major crimes or cases under investigation at the LEC will not have a storage fee assessed by the SCSO, in most cases, however the SCSO will be responsible for the towing fee. The vehicle should also be removed from the SCSO impound storage area as soon as possible.
4. Before any release is authorized from the SCSO Impound Yard, any tow bills must be paid and a copy of such paid receipt must be presented to the releasing officer. A copy of which will be attached to the Release of Impounded Vehicle form.
5. When the SCSO impound lot is used by another agency – the agency is to furnish a copy of their report and any impound/inventory paperwork and include a contact number for the investigating officer to the CID Lieutenant. This vehicle will also be logged on the vehicle impound lot log in the CID copy/file room.

J. IMPOUND AREAS – (Private impound lots) GENERAL & SPECIFICATIONS

1. Any garage/tow service that wants to be an impound area for the SCSO shall make their request to the Sheriff by December 10th of each year.
2. Each impound service shall have an area that can be secured from the general public which remains locked and secure at all times.
3. Each impound area shall be inspected annually by the person in charge of impounds or Sheriff's designee of the SCSO for compliance.
4. Impound territories shall be determined annually by the Sheriff after receipt of all applications to be an impound area.

5. Shall be large enough to hold at least three to four standard size vehicles.
6. The provisions outlined in Sections J do not pertain to tractor trailers or large vehicle impounded by the SCSO. Due to their large size, special provisions will be made in connection with their impoundment.

K. SEIZURE PROCEDURE –

1. Vehicle Seizures will be determined by the district attorney's office.