

One Minute Brief

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TOPIC: Inventory Searches

ISSUE: When may police impound and inventory a vehicle?

One exception to the warrant requirement is an inventory search of vehicles. “When a vehicle is impounded or otherwise in lawful police custody, an officer may conduct a warrantless search aimed at securing or protecting the vehicle and its contents.” (*People v. Lee* (2019) 40 Cal.App.5th 853, 867.) The impoundment and inventory are based on community caretaking, not criminal wrongdoing, so the inventory search does not require probable cause. (*Ibid.*) But at the same time, it cannot be just a pretext for a criminal investigation. (*Ibid.*)

For the inventory to be valid, the impound must be valid. (*People v. Lee, supra*, at p. 867.) Unlike normal searches, when evaluating an impound, the court looks at both whether it was objectively reasonable *and* at the officer’s subjective intent. (*People v. Torres* (2010) 188 Cal.App.4th 775, 787–788.) An impound that is a pretext for an investigation is unlawful, and anything found will be suppressed.

Several statutes authorize police to impound vehicles in certain circumstances, including when a driver does not have a valid license or when the driver is arrested. (See, e.g., Veh. Code, §§ 14602.6, subd. (a)(1); 22651.) When authorized, an officer may still use discretion to decide whether to impound a vehicle, “so long as that discretion is exercised according to standard criteria and on the basis of something other than suspicion of evidence of criminal activity.” (*Colorado v. Bertine* (1987) 479 U.S. 367, 375 [107 S.Ct. 738, 93 L.Ed.2d 739].)

But statutory authorization does not, by itself, mean that the impound is reasonable under the Fourth Amendment. (*People v. Williams* (2006) 145 Cal.App.4th 756, 762.) In addition, the circumstances must show that the impound served a valid community caretaking function. “The absence of a proper community caretaking function suggests an impound is a pretext to investigate without probable cause” (*People v. Lee, supra*, 40 Cal.App.5th at p. 867.)

For example, impoundment is permissible if the car is parked illegally (*People v. Lee, supra*, at p. 867), if the car may be a hazard (*People v. Williams* (2006) 145 Cal.App.4th 756, 761), or if the car may be a target for vandalism or theft (*ibid.*). Some authority also holds that it is permissible to impound an unregistered vehicle to prevent it from being driven in the meantime. (*Halajian v. D & B Towing* (2012) 209 Cal.App.4th 1, 16.)

But authorities hold that impoundment is *not* reasonable solely when a driver is unlicensed and the officer believes he or she may drive the vehicle again. (See, e.g., *Blakes v. Superior Court* (2021) 72 Cal.App.5th 904, 914 [driver with suspended license insufficient to tow a vehicle legally parked in public lot]; *People v. Lee* (2019) 40 Cal.App.5th 853, 868 [driver and passenger unlicensed but car legally parked and someone else could pick it up]; but see *People v. Burch* (1986) 188 Cal.App.3d 172, 180 [justifying impound by noting solely that driver was unlicensed].)

A recent case highlights this rule.

In *People v. Perez* (2026) 119 Cal.App.5th 345, police stopped a van for a municipal code violation. The van legally parked and was not obstructing traffic. The driver, Perez, had a suspended license. Police had Perez exit the van and told him they were going to search the van before towing and impounding it. The sole reason for the impound was that Perez had a suspended license, and the officer believed Perez may just drive the van again (indeed, his license had been suspended for about 30 years). The department did **not** have a policy relating to impounding vehicles when a driver is driving on a suspended license. The search revealed drugs and indicia of sales, leading to a further search of Perez's hotel room, which in turn revealed a gun and more drugs.

The trial court denied the defendant's suppression motion, but the Court of Appeal reversed. The court agreed that the officer did not have an investigatory motive, and that the officer properly used standardized criteria when deciding whether to tow the car. Nevertheless, the court held that "a suspended or revoked license without more does not qualify impoundment of [Perez's] vehicle as a community caretaking function." (*Id.* at p. 363.)

It is not clear how far *Perez* extends. There might be situations where a driver poses a more serious hazard if he or she resumes driving. But *Perez* reaffirms that merely being unlicensed does not justify towing a car, without more.

BOTTOM LINE: Law Enforcement: If you are going to tow a car, do not rely solely on a statute authorizing impound. Document the standardized policy for impounds and list *all* factors that show the impound is *reasonable* to either protect the public or to protect the vehicle or its contents.

Prosecutors: As always, *know the legal standard*. When relying on impound and inventory, marshal facts showing that the impound was legally authorized, pursuant to a standardized policy, and reasonable under the circumstances. If the report does not mention the specific reasons for an impound, you have a problem. The officer's **subjective motivation** is an issue, so the lack of information justifying the impound might lead the judge to find it was a pretext.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.