



ORANGE COUNTY SHERIFF'S DEPARTMENT CONSTITUTIONAL POLICING UPDATE

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Coalition on
Homelessness v. San
Francisco
93 Cal.App.5th 928
(2023)

4TH AMENDMENT
CIVIL LIABILITY

A Minute with Mary

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IS IT CONSTITUTIONAL TO TOW A VEHICLE ONLY BECAUSE OF UNPAID PARKING TICKETS?

A warrantless tow of a vehicle must fall under the community caretaker exception. Officers should *not* tow vehicles *only* because of unpaid parking tickets because it is unconstitutional.

What is the current law on towing vehicles for unpaid tickets?

California Vehicle Code § 22651(i)(1) permits the impounding a vehicle if the vehicle has been issued five or more notices of parking violations and the owner or person in control of the vehicle has not responded within 21 calendar days of the citation or 14 calendar days of the mailing of a notice of delinquent parking violation.

However, in July 2023, the California Court of Appeal held that it is unconstitutional to tow a legally parked car with unpaid parking tickets, without a warrant, when the vehicle presents no threat to public safety and the efficient movement of vehicular traffic. *Coalition on Homelessness v. City & County of S.F.*, 93 Cal.App.5th 928 (2023). U.S. Const. Amend. 4; Cal. Veh. Code § 22651(i)(1).

The court ruled that vehicle tows are a significant intrusion on property rights that may seriously impact the lives of the owners. The Fourth Amendment warrant requirement protects those property interests. Even though Cal. Veh. Code § 22651 authorizes towing of vehicles by law enforcement, impoundment must still serve community caretaking function.

A warrantless tow of legally parked car under vehicular community caretaker exception only for unpaid parking tickets is unconstitutional.

“Even though the Cal. Veh. Code § 22651 authorizes towing of vehicles by law enforcement, impoundment must still serve community caretaking function.”

“It is unconstitutional to tow a legally parked vehicle with unpaid parking tickets without a warrant when the vehicle presents no threat to public safety and the efficient movement of vehicular traffic.”

“Police officers should document the relevant factors describing how a particular impoundment of a vehicle is justified under the vehicular community caretaking exception.”

“Documentation will demonstrate that the tow was not solely based on unpaid parking tickets.”



Law enforcement is permitted to tow vehicles that are:

- Illegally parked
- Unregistered
- Impeding traffic
- Threatening public safety
- In need of immediate towing for other documented legitimate reasons

Implications for Law Enforcement

- Policy Alignment: Department’s Patrol Operations Manual Update will be released soon. In the meantime, deputies must ensure that towing practices are consistent with current case law, particularly the requirements stemming from the Coalition on Homelessness decision.
- Training and Awareness: Deputies should recognize the parameters of the community caretaking exception and ensure compliance with constitutional protections regarding property rights.

What does this mean for you?

The community caretaking function still exists with respect to towing of vehicles. Law enforcement is legally permitted to tow any illegally parked vehicles, unregistered vehicles, vehicles impeding traffic, threatening public safety, or vehicles presenting some other immediate need for a tow under Cal. Veh. Code § 22651.

Police officers should document the relevant factors describing how a particular impoundment of a vehicle is justified under the vehicular community caretaking exception. Documentation will demonstrate that the tow was not solely based on unpaid parking tickets.

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