

Vehicle Impound Hearings

503.1 PURPOSE AND SCOPE

State **MODIFIED**

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code section 22852.

503.2 STORED OR IMPOUND HEARING

State **MODIFIED**

When a vehicle is stored or impounded by any employee of the Office of Protective Services (OPS), a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Veh. Code § 22650(a); Veh. Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Veh. Code § 22852(c)).

503.2.1 HEARING PROCEDURES

Best Practice **MODIFIED**

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Veh. Code § 22852(b)). The Lieutenant will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Veh. Code § 22851.3(e)(2); Veh. Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with OPS.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Veh. Code § 14602.6(b); Veh. Code § 14602.8(b)).

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Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code sections 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and DSH's policy is to prevent unlicensed driving pursuant to Vehicle Code § 14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
 - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at DSH's expense (Veh. Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Lieutenant. The hearing officer will recommend to the appropriate Lieutenant that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by DSH.