

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
AND
THE TOWN OF CARY

I. PURPOSE

The purpose of this Memorandum of Understanding (MOU) between the North Carolina Department of Transportation (NCDOT) and the Town of Cary, a North Carolina municipal corporation (CPD) is to provide guidance for implementation of the Immediate Removal (often referred to as Quick Clearance) provision of N.C.G.S. § 20-161(f) on the State highway system.

This MOU reflects the understanding and agreement of the NCDOT and the CPD that public safety must be afforded the highest priority in reopening traffic lanes blocked by motor vehicle crashes or other incidents. Further, utilization of the Quick Clearance procedures authorized by N.C.G.S. § 20-161(f) to expeditiously remove vehicles and cargo blocking highways, and thereby creating a safety hazard, may require the utilization of available resources and should immediately be put into effect.

II. AUTHORITY/LEGAL STATUS

North Carolina General Statute G.S. § 20-161(f) states an investigating law enforcement officer, with the concurrence of the Department of Transportation, or the Department of Transportation, with the concurrence of an investigating law enforcement officer, may immediately remove or cause to be removed from the State highway system any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering with the regular flow of traffic or which otherwise constitutes a hazard. In the event of a motor vehicle crash involving serious personal injury or death, no removal shall occur until the investigating law enforcement officer determines that adequate information has been obtained for preparation of a crash report. No state or local law enforcement officer, Department of Transportation employee, or person or firm contracting or assisting in the removal or disposition of any such vehicle, cargo, or other personal property shall be held criminally or civilly liable for any damage or economic injury related to carrying out or enforcing the provisions of this section.

III. ROLES AND RESPONSIBILITIES

A. Cary Police Department

CPD officers who respond to any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering

with the regular flow of traffic or which otherwise constitutes a hazard on the State highway system will make every effort to ensure an initial assessment of the scene and determine if the Immediate Removal provision of N.C.G.S. § 20-161(f) is appropriate.

While it is understandable that vehicle and cargo owners may desire extreme measures be taken to protect their property from further damage, such measures may not be prudent if doing so would be a time-consuming endeavor that also would require restricting the flow of traffic or that may result in the creation of a hazardous situation on the State highway system. In such cases, the authority provided by N.C.G.S. § 20-161(f) may be utilized to remove, or cause to be removed, vehicles and/or cargo from roads in the State highway system.

Consistent with the objective of restoring the regular flow of traffic on the State highway system, members, and officers of the CPD should make every effort to conduct any required traffic investigation in as expedient a manner as possible bearing in mind the type of motor vehicle accident at issue and in keeping with CPD policies and applicable law. This may mean, in the officer's discretion, that certain non-critical portions of an investigation may be conducted at a later time when traffic congestion has lightened or resolved. However, "in the event of a motor vehicle crash involving serious personal injury or death, no removal shall occur until the investigating law enforcement officer determines that adequate information has been obtained for preparation of a crash report." *See* N.C.G.S. § 20-161(f).

With the concurrence of the Division Engineer or their representative, the investigating member or officer may initiate steps to immediately clear the road of vehicles, cargo, or other obstructions and debris consistent with this MOU and N.C.G.S. § 20-161(f). In order to accomplish this task, the investigating member or officer may request the assistance of the Division Engineer or their representative, Incident Management Assistance Patrol (IMAP) when available, designated rotation wrecker firms when applicable or State contract tow providers when applicable and/or available NCDOT resources. For major lane blocking or traffic disruption incidents, such as overturned tractor trailers, hazardous material spills, fatality investigations, non-fatality investigations or multi-vehicle wrecks, every effort should be made to contact the NCDOT State Traffic Operations Center (STOC) at 877-627-7862 (877-NCS-STOC) for assistance with the coordination of detours, traveler information, traffic conditions and contacting appropriate towing and recovery resources.

B. NCDOT

NCDOT will make every effort to ensure that there are designated on-duty personnel with the authority and expertise available at all times to grant the necessary concurrence to put into effect the Quick Clearance procedures described herein.

NCDOT will make every effort to ensure that the CPD’s Communications Center is kept apprised of all necessary recall numbers for on-duty personnel responsible for implementing Immediate Removal procedures. This information will also be readily available at the **STOC 877-627-7862**.

NCDOT will make every effort to cooperate with the CPD in responding to all major incidents and in determining whether and to what extent the Immediate Removal procedures authorized by N.C.G.S. § 20-161(f) are warranted. For major incidents where Immediate Removal occurs, or other issues arise, NCDOT will perform after incident reviews to discuss positive and/or negative effects of decisions made at the incident scene.

In any case where a determination is made that the use of NCDOT equipment is the most expedient and prudent way to move vehicles, cargo, or other personal property from the State highway system, NCDOT will make every effort to relocate cargo or other personal property in the shortest possible time, using whatever equipment is necessary. All such materials will be relocated as short a distance as necessary to clear the travel lanes or otherwise avoid any traffic hazard.

In any case where NCDOT personnel and equipment are used to clear a State highway pursuant to the provisions of this MOU, the Division Engineer or their representative shall prepare a list of the personnel, materials, traffic control devices, and equipment used and the work hours involved so that the owner of the vehicle and/or cargo can be billed for the work pursuant to N.C.G.S. § 20-161(g).

IV. MODIFICATIONS

Appropriate NCDOT and CPD personnel shall review this MOU on an as needed basis to determine if any modifications are necessary.

This MOU supersedes any previous agreements between the NCDOT and CPD related to removal of vehicles from the roadway.

Entered into effective the _____ day of 02/14/2024, 2024.

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION
DocuSigned by:
Brandon Jones
CPD1757C5C68495
Brandon H. Jones, PE, Division Engineer

TOWN OF CARY
DocuSigned by:
Chief Terry Sult
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Terry Sult, Chief of Police

By signing this memorandum of understanding, CPD concurs that for minor incidents, such as abandoned or disabled vehicles and minor crashes that occur on the paved or main-traveled portion of any highway that IMAP service patrols, IMAP if available, may properly mark the location of vehicles, assist in traffic control and/or relocate vehicles to a non-hazardous location without additional concurrence for Immediate Removal from the CPD.