

	<p><b>BOLTON POLICE DEPARTMENT</b></p>	<p><b>POLICY NO. 1.08</b></p>
<p>Subject:</p> <p style="text-align: center;"><b>MOTOR VEHICLE INVENTORY</b></p>		
<p>MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>1.2.4 (c); 1.2.4 (d); 1.2.4 (e); 1.2.4 (f); 1.2.4 (g); 61.4.3</b></p>		<p>DATE OF ISSUE: June 1, 2018</p>
<p>ISSUING AUTHORITY:</p> <p>_____ Warren E. Nelson, Jr. _____ Chief of Police</p>		<p>EFFECTIVE DATE: June 1, 2018</p> <p>REVISION DATE:</p>

## GENERAL CONSIDERATIONS

The purpose of this directive is to provide guidelines for department personnel to follow when conducting an inventory of motor vehicles that are towed, removed, impounded, or stored by the police department. This will help to accomplish the following:

1. The protection of the motor vehicle as well as any personal property contained in such vehicle;
2. The protection of the Department, police personnel, and the tow company against claims of lost, stolen, or vandalized property; and
3. The protection of the police and the public from potentially dangerous items that may be in the vehicle.

This policy and procedure does not apply to searches conducted for the purpose of discovering evidence. Consult the department's policy and procedure entitled ***Searches and Seizures*** where the examination of a motor vehicle or its contents is to be conducted with an investigatory motive.

## POLICY

- A. It shall be the policy of the Police Department to conduct and record an inventory of the contents of all motor vehicles towed, removed, impounded, stored at the request of the Department, or otherwise placed in the custody of the Department, as the result of

police actions **with the exception of the following circumstances** in which no inventory will be taken when: [1.2.4 (f)]

1. the vehicle is lawfully parked and locked in an area not presenting a risk of theft or vandalism;
  2. the vehicle can be removed by a competent, alternative operator, who is present when the officers decide whether to tow the vehicle and who has been explicitly approved by the vehicle owner, or in the owner's absence, someone in control with the owner's permission; [1.2.4 (g)]
  3. the vehicle is disabled, either by mechanical failure or as a result of damage resulting from a motor vehicle accident, where the owner and/or operator is present and makes satisfactory arrangements to have the vehicle removed by someone other than the department's on-call tow company.
  4. large numbers of cars will require towing due to nature-related emergencies (i.e. snow removal); or
  5. special conditions requiring prompt removal prevent the taking of an inventory before the vehicle is removed.
  6. the vehicle is towed by the department's tow contractor and the vehicle owner accompanies the tow.
- B. Notwithstanding the foregoing, it is the policy of the Department that a vehicle must be impounded and towed and an inventory will be taken in the following situations when:
1. the driver is arrested for Operating under the Influence;<sup>1</sup>
  2. the vehicle is abandoned or involved in trespass on private property;<sup>2</sup> or [61.4.3]
  3. the vehicle cannot be lawfully operated.<sup>3</sup>
- C. When an inventory is not conducted, an explanation as to the reason why it was not done shall be included in the officer's report. In instances that do not require a police report, it shall be noted in the dispatch log.

## PROCEDURES

### I. DEFINITIONS

- A. **Impound:** To take into custody of the law.<sup>4</sup>

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<sup>1</sup> *Commonwealth v. Kry*, 2017 WL 35535 (Appeals Court).

<sup>2</sup> See G.L. c. 90, § 22C; G.L. c. 266, § 121A; and G.L. c. 266, § 120D.

<sup>3</sup> *Commonwealth v. Daley*, 423 Mass. 747 (1996); *Commonwealth v. Ubilez*, 88 Mass.App.Ct. 814 (2016).

<sup>4</sup> Black's Law Dictionary, sixth ed.

**Note** Although the leading case states that inventories are only justified when a vehicle has been lawfully impounded, neither the U.S. Supreme Court nor the Massachusetts state courts have defined this term.

- B. Inspection:** An examination of the exterior and interior of the vehicle for damaged or missing parts.
- C. Inventory:** An examination of all areas of the vehicle in which personal property may reasonably be found, including but not limited to the passenger compartment, trunk, and glove/map box.

## II. INVENTORY PROCESS

- A. Any vehicle that is towed, removed, impounded, stored at the request of the Department, or otherwise placed in the custody of the Department is to be inspected and an inventory of its contents and general condition shall be recorded on the Motor Vehicle Inventory Form.
  - 1. Whenever the inspection and inventory at the scene are not safe or practical, they may be conducted at a storage facility. In either case, they should be conducted within a reasonably short period of time. [1.2.4 (d)]
  - 2. Officers must maintain custody of the vehicle until the inventory is complete. When the inventory is to be conducted at a storage facility, the officer must follow the tow truck to the storage facility.
  - 3. Inventory of items shall specifically describe such things as:
    - a. The item Make, Model & Type
    - b. Amount (of money or number of items)
    - c. Any other identifying descriptions
- B. It shall be the responsibility of the member of the department requesting the tow to:
  - 1. Secure any monies or articles of value that cannot be properly secured by the tow company in accordance with procedures set forth in the department policy and procedure entitled ***Evidence and Property Handling Procedures***.
  - 2. Cause the owner of the motor vehicle or his/her representative to be notified as soon as possible, and inform him/her of the following:
    - a. Location of the towed vehicle;
    - b. Reason for the tow; and
    - c. Contents removed.

3. Contact dispatch to have an appropriate entry made in the Department Computer System as to the description of the vehicle towed and the tow company.
4. Cause any contents, taken to the station for safekeeping or seized as evidence or contraband, to be appropriately processed and tagged according to the department policy and procedure entitled ***Evidence & Property Handling Procedures***. An incident report shall be required for any seizure of evidence or contraband found incidental to the inventory.
5. Cause a computer check to be made of the vehicle's registration plate number and the vehicle identification number (VIN).

### III. SEQUENCE OF INSPECTION AND INVENTORY

- A. The standard inventory process will consist of an inspection of the exterior and interior of the vehicle for damaged or missing parts, as well as a search of the interior of the vehicle to locate and record all contents. Areas of the vehicle that are subject to examination shall include all closed or locked depositories, including the trunk, glove box, console, or similar type depositories, that can be accessed without causing damage to the vehicle. In addition, the contents of any open containers, or closed containers that can be opened without damage, shall also be inventoried. If such areas cannot be accessed by the officer, this shall be noted on the Motor Vehicle Inventory Form.
- B. When an officer has probable cause that a locked depository and/or container contains a dangerous item which presents an immediate danger to the public or the officer, a **search warrant** may be obtained unless exigent circumstances make the delay impractical under the motor vehicle exception to the warrant requirement. The seriousness of the case should be considered and a supervisor should make the final determination. [1.2.4 (c); 1.2.4 (e)]<sup>5</sup>
- C. When there is a live animal in the vehicle, animal control shall be notified to take charge of the animal, unless the owner or operator of the vehicle makes other arrangements.

### IV. DISCOVERING EVIDENCE OF A CRIME

- A. While the purpose for an inspection and inventory of a motor vehicle is not to discover evidence of a crime, such evidence is admissible so long as the inventory is conducted in accordance with this policy and procedure **and the discovery of such evidence is incidental to the inventory.**

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<sup>5</sup> Commonwealth v. DiFalco, 73 Mass.App.Ct. 401 (2009).

- B. Any of the following articles that establish probable cause to believe that a crime is or has been committed, found as the result of the inventory, may be seized and held for further investigation:
  - 1. Contraband
  - 2. Fruits of a crime
  - 3. Instruments of a crime
  - 4. Evidence of a crime

## V. MOTOR VEHICLE INVENTORY FORM [82.2.1]

- A. The Motor Vehicle Inventory Form shall be completed in its entirety by the investigating officer, preferably prior to the removal of the vehicle by the tow company. In those cases when this is not possible, the location and the time of the inventory shall be noted on the inventory form.
- B. The completed inventory form will be attached to and filed with any report of investigation or arrest. Such report shall document all facts, information and circumstances justifying the towing of the vehicle.
- C. In those cases, where there is no arrest or report of investigation, the Records Bureau will maintain the completed inventory forms.