



# ACTON POLICE DEPARTMENT

DEPARTMENT MANUAL; P&P: Traffic		
POLICY & PROCEDURE # 5.03	DATE OF ISSUE: 10/10/2019	EFFECTIVE DATE: 10/17/2019
SUBJECT: MOTOR VEHICLE INVENTORY	ISSUING AUTHORITY: Chief Richard Burrows	
REFERENCE(S): Massachusetts Police Accreditation Commission # 1.2.4; 61.4.3; 82.2.1	____NEW <u>  X  </u> AMENDS    ____RESCINDS	

## I. PURPOSE

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 Acton police department. This will help to accomplish the following:

- The protection of the motor vehicle as well as any personal property contained in such vehicle;
- The protection of the Department, police personnel, and the tow company against claims of lost, stolen, or vandalized property; and
- 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 Searches and Seizures policy (policy 1.08) where the examination of a motor vehicle or its contents is to be conducted with an investigatory motive.

## II. DEFINITIONS

1. **Impound:** To take into custody of the law.<sup>1</sup>
  - a. 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.
2. **Inspection:** An examination of the exterior and interior of the vehicle for damaged or missing parts.
3. **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.

### III. POLICY

It shall be the policy of the Acton 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. If a third party is present, who is lawfully able to assume custody of the subject's possessions, if reasonable, the officer should inquire of the subject whether he or she would prefer to entrust his or her possessions to that third party.
4. 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.
5. Large numbers of cars will require towing due to nature-related emergencies (i.e. snow removal).
6. Special conditions requiring prompt removal prevent the taking of an inventory before the vehicle is removed.

Notwithstanding the foregoing, it is the policy of the Acton Police 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>2</sup>
2. The vehicle is abandoned or involved in trespass on private property.<sup>3</sup>  
**[61.4.3(A)(C)]**
3. The vehicle cannot be lawfully operated.<sup>4</sup>

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.

#### **IV. PROCEDURES**

- A. Any vehicle that is towed, removed, impounded, stored at the request of the Acton Police Department, or otherwise placed in custody is to be inspected and an inventory of its contents and general condition shall be recorded on the Motor Vehicle Inventory Form.

**[61.4.3(D)]**

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. The item Serial Number if available
  - c. Amount (of money or number of items)
  - d. Any other identifying descriptions

- B. It shall be the responsibility of the officer(s) requesting the tow to:

1. 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
  - c. Contents removed for safekeeping, if any.
2. Contact dispatch to have an appropriate entry made in the CAD System as to the description of the vehicle towed and the tow company. **[61.4.3(E)]**

3. 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's Property and Evidence Control Policy (6.02). An incident report shall be required for any seizure of evidence or contraband found incidental to the inventory.
  4. Cause a computer check to be made of the vehicle's registration plate number or the vehicle identification number (VIN).
- C. 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 the officer cannot access such areas, this shall be noted on the Motor Vehicle Inventory Form.

When an officer has probable cause that a locked depository and/or container contains a dangerous item that 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 the shift supervisor should make the final determination.

**[1.2.4(c); 1.2.4(e)]**<sup>5</sup>

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.

- D. While the purpose of 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.

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]**

The investigating officer shall complete the Motor Vehicle Inventory Form in its entirety, 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.

If possible, the officer completing the inventory shall obtain the signature of the tow operator or tow company representative.

The completed inventory form shall 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.

In those cases, where there is no arrest or report of investigation, the Records Department shall maintain the completed inventory forms.

### **MOTOR VEHICLE INVENTORY INFORMATION**

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#### **History: Manual I, Section III**

<sup>1</sup>Black's Law Dictionary, sixth ed.

<sup>2</sup>Commonwealth v. Kry, 2017 WL 35535 (Appeals Court).

<sup>3</sup>See G.L. c. 90, § 22C; G.L. c. 266, § 121A; and G.L. c. 266, § 120D.

<sup>4</sup>Commonwealth v. Daley, 423 Mass. 747 (1996); Commonwealth v. Ubilez, 88 Mass.App.Ct. 814 (2016).

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