



# Watertown Police Department

## MOTOR VEHICLE INVENTORY & IMPOUNDMENT CHAPTER 61I



**General Order Number: 11-009**

**Reference: Black's Law Dictionary 6<sup>th</sup> Edition.**

**Accreditation Standards: 1.2.4F**

**Mass. Gen. Law: Chapter 40, Section 22D.**

**Other: WPD Manual "Abandoned and Towed Motor Vehicles", "Search and Seizure" and "Property Management". WPD Vehicle Inventory Form. Commonwealth v. Garcia 409 Mass. 675 (1991) and Commonwealth v. Caceres 413 Mass. 749 (1992).**

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**Effective Date: 12/11/2001**

**Revised Date: 6/15/2011**

### **GENERAL CONSIDERATIONS AND GUIDELINES:**

A motor vehicle inventory is an administrative measure designed to:

1. Protect the motor vehicle as well as any personal property contained in such vehicle;
2. Protect the police officers and the Watertown Police Department against claims arising from property allegedly lost or stolen while in police custody; and
3. Protect Department personnel and the public from injury or property damage due to dangerous items or substances that may be contained in the vehicle.

See Commonwealth v. Garcia, 409 Mass. 675 (1991).

This policy and procedure does not apply to searches conducted for the purpose of discovering evidence. Consult Departmental policies and procedures on Search and Seizure where the examination of a motor vehicle or its contents is to be conducted with an investigatory motive.

### **POLICY:**

It is the policy of the Watertown Police Department that all motor vehicles which are lawfully towed, removed, impounded or stored at the direction of a police officer or placed in the custody of the police department, shall be inspected and inventoried according to the procedures in this policy.

### **DEFINITIONS (for the purposes of this chapter):**

- I. Impound:** To take a motor vehicle into custody at the direction of law enforcement.
- II. Inspection:** An examination of the exterior and interior of the vehicle for damaged or missing parts.

- III. 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, glove/map box and accessible containers found therein.

## **PROCEDURES:**

- I. Impoundment:** Vehicle impoundment is authorized under the following circumstances:
- A. **UNREGISTERED:** When the vehicle is found on a public way and is not properly registered
  - B. **UN-INSURED:** When a vehicle is located on a public or private way and is not properly insured in violation of Massachusetts General Law Chapter 90 § 34J.
  - C. **ARREST:** When the operator of a motor vehicle is placed under arrest and there is not a properly licensed passenger willing or able to take immediate custody of the vehicle. However, if the operator is arrested for Operating Under the Influence the vehicle shall be impounded in accordance with Massachusetts General Law Chapter 90 § 24 even if a responsible person is willing and otherwise able to take immediate custody of the motor vehicle. If the operator refuses to submit to a chemical test the vehicle shall be impounded for 12 hours.
  - D. **UNSAFE:** Anytime a vehicle is found on a public way, or a private way that is open or readily accessible to the public, and is deemed a threat to public safety it shall be impounded.
  - E. **EVIDENCE:** As with other evidence, a motor vehicle may be impounded if the vehicle is evidentiary in nature and the officer initiating the impoundment has lawful authority to seize it.
  - F. **VEHICLE LEFT UNATTENDED ON PUBLIC WAY:** Anytime a vehicle is left unattended on a public way and the vehicle's lack of a custodian was the result of police intervention (i.e. arrest, protective custody, detainment, etc.) and the vehicle is not lawfully parked, there is a reasonable concern that the vehicle, or its contents, may be stolen or vandalized, or there is a reason to believe the vehicle contains items that may pose a danger to the public, and there is no other responsible person of the operator's choice who is able or willing to take immediate custody of the vehicle.
  - G. **VEHICLE LEFT UNATTENDED ON A PRIVATE WAY OR PRIVATE PROPERTY:** Anytime a vehicle is left unattended on a private way and the vehicle's lack of a custodian was the result of police intervention (i.e. arrest, protective custody, detainment, etc.) and the private property owner or custodian requests its removal, or is not present to grant permission for it to remain.
  - H. **TRAFFIC HAZARD:** Anytime a motor vehicle is unattended, or the operator or custodian is not available or capable of immediately moving the vehicle, and the vehicle is posing a traffic hazard or obstruction.
  - I. **AUTHORIZATION:** All vehicles towed at the direction of the police shall be towed only with the expressed authorization of a police supervisor of the rank of Sergeant or higher (see M.G.L. chapter 40, section 22D).
  - J. All vehicles towed at the direction of the police shall be inspected and inventoried.

## **II. Inspection and Inventory:**

- A. All vehicles towed at the direction of the police shall be secured and stored at either a designated police storage facility or at the police station in accordance with these policies and procedures, unless the vehicle is disabled, either by mechanical failure or as a result of damage from a motor vehicle collision, where the owner and/or operator is present and makes satisfactory arrangements, within a reasonable time period, to have the vehicle removed by someone other than the department's on-call tow company. (If it is the

department's on-call tow company that is requested and responds for the removal of a vehicle damaged as the result of a motor vehicle collision, an inspection and inventory shall be completed in accordance with these policies and procedures).

- B. **RESPONSIBILITY:** The officer directing that a vehicle be towed, removed, impounded or stored or the officer acting on behalf of the department in accepting custody of a vehicle shall inspect and inventory the vehicle and its contents unless the responsibility for same has been properly transferred to another officer.
- C. **REMOVAL OF PROPERTY BY OWNER:** The owner or operator of the vehicle who is not under arrest should be asked to remove all valuables from the vehicle prior to the police tow. Items not removed shall be inventoried.
- D. **LOCATION OF INVENTORY:** Whenever the inspection and inventory at the scene are not safe or practical, such inspection and inventory may be conducted at the police station or the designated storage facility.
  - 1. Whether the inspection and inventory is conducted at the scene, the police station or at the designated storage facility, it should be conducted within a reasonably short period of time after the vehicle was taken into custody.
  - 2. Officers must maintain custody of the vehicle until the inventory is complete. When the inspection and inventory is to be conducted at the police station or the designated storage facility, the officer must follow the tow truck to the police station or storage facility.

### **III. Inspection and Inventory Process:**

- A. **EXTERIOR INSPECTION:** The exterior of the vehicle shall be inspected for missing or damaged parts. The following sequence is recommended:
  - 1. Front of the vehicle;
  - 2. Right (passenger) side;
  - 3. Rear of the vehicle;
  - 4. Left (driver) side;
  - 5. Hood;
  - 6. Roof;
  - 7. Trunk; and
  - 8. Undercarriage areas.
- B. **INTERIOR INSPECTION AND INVENTORY:** The interior of the vehicle shall be inspected and inventoried. All areas capable of housing valuables shall be inspected, including containers within the vehicle, the glove box, the center console, the trunk, and all other areas reasonably capable of housing valuables.
  - 1. If the glove/map box and/or trunk are locked and the officer cannot open it with a key or from within the vehicle, these areas shall not be inventoried and appropriate notations made on the Vehicle Inventory Form.
  - 2. In many vehicles, a locked trunk may be opened from within the vehicle. In these vehicles, the trunk shall be opened and inventoried.

3. For vehicles where the trunk is locked and no key is available, but the trunk may be accessed by folding down the rear seat, this shall be done and the trunk's contents inventoried.
3. UNLOCKED CONTAINERS: All unlocked containers shall be opened and the contents shall be inventoried separately.
4. LOCKED CONTAINERS: If a key or lock combination is available, locked containers shall be opened and inventoried. All locked containers that cannot be opened shall be noted as a single item on the Vehicle Inventory Form.
5. When there is probable cause that a locked container contains explosives, weapons or other substances that present an immediate danger to the public or the police; evidence or fruits of a crime; or contraband, the officer shall be guided by Departmental policies and procedures on Search and Seizure.

C. DANGEROUS ITEMS:

1. Dangerous items shall be noted on the Vehicle Inventory Form, promptly made as safe as practical, secured and/or removed according to these policies and procedures and Departmental policies and procedures on Property Management.
2. Legally owned firearms shall be noted on the Vehicle Inventory Form, promptly made as safe as practical, secured and removed according to these policies and procedures and Departmental policies and procedures on Property Management.

D. VALUABLE ITEMS: Items that appear to be valuable shall be noted on the Vehicle Inventory Form. They shall be secured and/or removed and documented in accordance with Departmental policies and procedures on Property Management.

E. ANIMALS: When there is a live animal in the vehicle, the owner/operator of the vehicle shall be asked to make arrangements for the immediate removal and securing of the animal. If the animal is unable to be immediately removed and secured, the Animal Control Officer (ACO), if available, shall be notified to take charge of the animal. If the ACO is unavailable, steps shall be taken to temporarily secure the animal either at an animal shelter or at the police station.

F. The tow truck operator shall be required to sign the Vehicle Inventory Form at the completion of the inventory and prior to the vehicle being removed to the storage facility or as soon as practical under extenuating circumstances.

G. The ignition key only will be turned over to the tow truck operator. All other keys, i.e. trunk key, personal keys, etc., shall be brought to the police station, kept and handled as part of the owner/operator's personal property.

H. The owner/operator of the motor vehicle should be advised of property that has been inventoried and shall be given a copy of the Vehicle Inventory Form if he/she request such.

#### **IV. Documentation:**

- A. The officer making the inspection and inventory of a motor vehicle shall be responsible for documenting such inspection and inventory on the WPD Vehicle Inventory Form. All damaged or missing vehicle parts and items found in the vehicle shall be recorded on the Vehicle Inventory Form. Completed forms shall be attached to and made a part of an officer's police incident/arrest report. Such report(s) shall document all facts, information and circumstances justifying the towing of the vehicle.
- B. Property removed from the vehicle shall be listed on the Vehicle Inventory Form, stating the reason for removal and shall be immediately secured and documented according to Departmental policies and procedures on Property Management.
- C. Should the list of property removed from the vehicle be so large as to make the use of the Vehicle Inventory Form impractical, the officer may list the items on a separate sheet and attach the same to the Vehicle Inventory Form.

#### **V. Discovering Evidence of a Crime:**

- A. **ADMISSIBILITY:** 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 search is conducted in accordance with these policies and procedures.
- B. **SEIZURE:** Any article discovered as a result of a motor vehicle inventory may be seized if it is deemed to be:
  - 1. Contraband;
  - 2. Fruits of a crime;
  - 6. Instruments of a crime; or
  - 7. Evidence of a crime.
- C. **DOCUMENTATION AND STORAGE:** Any evidence of a crime or contraband seized as a result of a motor vehicle inventory shall be properly documented in the officer's incident/arrest report(s) and promptly secured according to Departmental policies and procedures on Property Management.

If an officer other than the investigating/reporting officer conducts the inventory and subsequently discovers items discussed in section VI-B, such assisting officer shall submit a written supplement report documenting the inventory and discovery.