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|  | RANDOLPH POLICE DEPARTMENT POLICY AND PROCEDURE MOTOR VEHICLE TOWS AND INVENTORY GEN - 13 | |
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Purpose

The purpose of this policy is to establish rules and guidelines for the towing of vehicles and for conducting the inventory.

Conducting an inventory of motor vehicles is when a motor vehicle is towed, removed, impounded, or stored by the police department. The purpose of inventory is administrative in nature. The inventory 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 police and tow company against claims arising from property allegedly lost or stolen while in either's custody; and
3. The protection of the police and 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 **Search and Seizure** where the examination of a motor vehicle or its contents is to be conducted for an investigatory purpose.

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Towing Guidelines

Pursuant to Massachusetts General Laws (M.G.L.) and the Town of Randolph By-Laws, the towing of vehicles will occur within the following guidelines:

Authorization to tow - The removal and towing of motor vehicles will be under the direction of the Commanding Officer/Shift Supervisor.

Tow Companies - Tows will be conducted only by those contractors authorized by the Chief of Police unless otherwise necessary due to extenuating circumstances. (Example: vehicle size too large for normal tow truck)

Tow Company List - The names of authorized tow companies will be maintained in a log and utilized on a rotating basis. For routine tows, when time allows, only when the list has been exhausted and all companies listed are unable to respond, an outside company can be contacted unless otherwise permitted under another section of this policy.

Tow Log - The Commanding Officer/ Shift Supervisor will ensure the following is recorded in a "tow log" whenever motor vehicle is towed: date and time of tow; name of tow company; location; name and address of registered owner; make, model, year and color of vehicle; registration number and state, and reason for the tow [61.4.3 – (1)E].

Reason for Tow Public & Private spaces 61.4.3 B C

Officers are authorized to tow a vehicle when a vehicle is:

- Abandoned (Ch. 90 § 22C)
- Trespassing (Ch. 266 § 121A)
- Upon any way in such a manner to impede the removal or plowing of snow or ice.
- Upon any sidewalk, crosswalk, or is illegally parked.
- Upon any way within 20 feet of an intersecting way.
- On the roadway side of any vehicle stopped or parked on the edge or curb of the way
- Blocking a public or private driveway.
- Upon any way where the parking of a vehicle will not leave a unobstructed lane at least 10 feet wide for passing traffic or impeding traffic violation.
- Reported stolen and it is recovered in the Town of Randolph.
- Left unattended in an open lot or in a secluded public area due to a police action and there is reasonable concern for the theft of or from the vehicle; vandalism; or inconvenience to the property owner.

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- Involved in a motor vehicle accident and cannot be safely operated.
- Evidence of a crime.
- Not legally driven (unregistered, uninsured, attaching plates, etc)
- Mechanical or safety hazard to the operator or other operators or is disabled and cannot be operated.
- A hazard to the public in any way not already covered.

Note: Officers have the discretion with permission by the Shift Commander or Supervisor to tow vehicles parked in Fire lanes and Handicap spaces when appropriate.

Note: Regardless of whether or not the vehicle is legally parked or there is an alternative operator, if an operator is arrested for operating under the influence of alcohol or drugs or intoxicating vapors, the vehicle must be towed.

Motor Vehicle Accidents

Towing from an accident scene shall be conducted according to the rotating list as described above. However, a motorist may request a specific company if it does not delay the removal of the vehicle from the accident scene. Should the occasion arise that the clearing of an accident scene may be expedited by using a tow company out of rotation, the Shift Supervisor or Commanding Officer may authorize the use of a company out of rotation. This will be considered a private tow.

Abandoned Vehicles 61.4.3 A

The following definitions shall apply: [61.4.3]

Abandonment - A vehicle left parked and unattended for 72 hours or more and reasonably deemed to be abandoned.ⁱ (public way)

Junk car - A vehicle with no salvage value.

Officers shall be guided by MGL 90 s 22c when a motor vehicle has been apparently abandoned by its owner and left standing for more than 72 hours on a public or private way, or on any property without the permission of the property owner or lessee. All vehicles towed will be documented. Any inventory shall be done in accordance with the departmental policy on Motor Vehicle Inventories. The following procedure shall be followed during an investigation for an Abandoned Motor Vehicles. [61.4.3 – (1)A E]

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Initial Investigation:(public way)

- Officer will be dispatched (if called in by citizen).
- Officer will attempt to contact owner of vehicle.
- If successful in contacting owner, Officer will advise same to have vehicle removed within 72 hours, or be charged with abandonment.
- The investigating Officer will transmit the registration number or VIN number, make, model, description, condition and location to the dispatcher. The Dispatcher will enter the information into the daily log.

If a follow-up investigation is necessary, the Officer assigned will request a case number and document the tow on an offense or arrest report and tow log. The report will include an inventory of the vehicle's contents and damage (if any). A daily log entry will be made at the time of the tow. [61.4.3 – (1)B D E]

Private Property Tow 61.4.3 C E

Towing from private property shall be by order of and through the arrangement by the person in control of the property and shall be consistent with MGL 266 sec 120D. A daily log entry shall be made on private tow notifications. Before a vehicle can be towed from private property for abandonment, the tow company must provide the following information in writing. [61.4.3 – (1)C E]

- The address from which the motor vehicle is being removed;
- The address to which the motor vehicle will be moved;
- The registration number;
- The name of the person or tow company that will be towing the motor vehicle.

Rental Vehicle Protocol

Upon encountering an unauthorized operator in a rental vehicle, officers will notify the rental company and tow the vehicle at the company's request only if:

1. the rental agreement is expired; or
2. the unauthorized operator does not have a valid license; or
3. officers are unable, through contact with an authorized operator on the agreement, to determine if permission to operate was granted to current operator; or
4. the driver is arrested and the authorized operator is not at the scene to retrieve the vehicleⁱⁱ

Policy on Inventories

It shall be the policy of the Randolph Police Department to conduct and record an inventory of the contents of **all** motor vehicles towed, removed, stored, or impounded at the request of the Randolph Police Department, **with the exception of the following circumstances** in which no inventory will be taken:

1. When the vehicle is legally parked and locked;
2. When the vehicle is removed by a competent alternative operator;
3. When the vehicle is disabled and towed at the operator's/owner's request and the owner/operator is present;
4. When large numbers of cars will require towing due to nature-related emergencies (i.e. snow removal); or
5. When special conditions requiring prompt removal prevent the taking of an inventory before the vehicle is removed.

Impoundment happens when officers at the scene decide the vehicle must be towed. Impoundment does not occur unless police are present.

A lawfully parked vehicle is one that is secure and legally parked in a public or private location. Secure means that it is locked with the windows closed. If the vehicle is lawfully parked because of a police stop, the vehicle can still be inventoried. If the vehicle was parked before police contact, an inventory cannot be conducted.ⁱⁱⁱ

A competent alternative operator must be present **before** officers notify the tow company^{iv}, **in possession** of a **valid** driver's license^v, and approved by the owner, or someone clearly authorized by the owner, to take custody of the vehicle^{vi}

Regardless of whether or not the vehicle is legally parked or there is an alternative operator, if an operator is arrested for operating under the influence of **alcohol or drugs or intoxicating vapors**, the vehicle must be towed.

When an inventory is not conducted, an explanation as to the reason why it was not done shall be included in the log. All inventories will be documented using a Randolph Police Department Inventory Form.

Procedure

Any vehicle that is towed, removed, impounded or stored at the direction of a police officer, or is placed in the custody of the police 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 or police station. In either case, they should be conducted within a reasonably short period of time from the police encounter.
2. 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

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 to locate and record all contents. Areas of the vehicle that are subject to examination shall include all closed or locked areas where personal and/or valuable property could be kept, including the trunk, glove box, console, hidden compartments^{vii}, or similar type depositories, that can be accessed without causing damage to the vehicle or depository. Locked containers may also be opened and inventoried if the officer believes an emergency situation exists. In addition, the contents of any open containers, or closed/locked containers that can be opened without damage, shall also be inventoried.

It shall be the responsibility of the member of the department requesting the tow to:

1. Attempt to notify the owner or his/her representative, as soon as possible, and inform him/her of the location of the tow, reason for the tow, and which contents were removed.
2. Contact dispatch to have an appropriate entry made in the Department Computer System (dispatch log and Tow Log Binder) - who towed it, from where, to where, case number, and reason for the tow should be noted. Dispatch should also run a registry query of the vehicle's registration plate number and the

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vehicle identification number (VIN), if different from the registration.

3. Cause any contents taken to the station for safekeeping or seized as evidence or contraband, to be appropriately processed and tagged according to departmental policy and procedures set forth in **Evidence and Property Control**. An incident report shall be required for any seizure of evidence or contraband found incidental to the inventory and an evidence/property number assigned to it.

Discovery of Evidence of a Crime

While the purpose for an 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 and/or weapons of a crime
4. Evidence of a crime

Any evidence seized as a result of an inventory should be documented on the inventory form.

Motor Vehicle Inventory Form

A 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, and also before the end of his tour of duty. In those cases when this is not possible, the location and the time of the inventory shall be noted on the inventory form.

The completed inventory form will be attached to and filed with any report of investigation or arrest, or criminal complaint. In those cases, where there is no arrest or report of investigation, the Records Bureau will maintain the completed inventory forms. The folder will be subject to inspection by the Chief of Police.

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ⁱ M.G.L. c. 90, s. 22C

ⁱⁱ Comm. v. Campbell, 475 Mass. 611 (2016) Byrd v. United States, 138 S. Ct. 1518 (2018), United States v Lyle, 919 F.3d 716 (2019).

ⁱⁱⁱ Comm. v. Oliviera, 474 Mass 10 (2016).

^{iv} Comm. v. Ellerbe, 430 Mass. 769 (2000); Comm v Delvalle, 2016 WL 4426380 (Appeals Court) (no obligation to allow arriving friends to take a vehicle that was already in the process of being towed.)

^v Comm. v. Bettencourt, 447 Mass. 631 (2006).

^{vi} Comm v. Nicholas, 93 Mass. App Ct. 1123 (2018) (police have right to be concerned about the owner's accusation of misappropriation if they turn the vehicle over to someone without a connection to the owner.)

^{vii} Comm. v. Mitchell, 2016 WL 1391097 (Appeals Court)