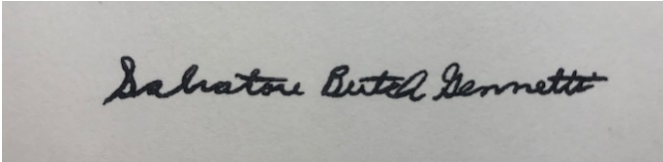



<h1>MALDEN POLICE DEPARTMENT MOTOR VEHICLE INVENTORY POLICY</h1>	
<p>Massachusetts police accreditation standards referenced: 41.4.1</p>	<p>GENERAL ORDER GEN 2023-006 POLICY NUMBER: TRA-004</p>
<p>Effective Date: 01/12/2023 Total Pages: 6</p>	<p><i>ISSUING AUTHORITY</i></p> <hr/> <p>Police Commissioner</p>  <p>Salvatore "Butch" Gennetti</p>
	

I. GENERAL CONSIDERATION AND GUIDELINES:

A motor vehicle inventory is an administrative measure designed to: ⁱ

1. Protect the motor vehicle as well as any personal property contained in such vehicle;
2. Protect the police against claims arising from property allegedly lost or stolen while in police custody;
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; and
4. Protect authorized tow companies against false claims of lost, stolen or vandalized property.

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.

II. POLICY:

It is the policy of the Malden Police Department that prior to a motor vehicle being lawfully towed, removed, impounded or stored at the direction of police officers, with the authorization of a police supervisor, or placed in the custody of the police department, the vehicle shall be inspected and inventoried according to the procedures in this policy. ⁱⁱ **41.4.1 (f)**

III. DEFINITIONS:

A. *Impound*: To take into custody of the law. ⁱⁱⁱ

Note: Although the leading cases state 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 compartment.

D. *Locked Container*: A container, which has a lock on it that is locked and for which the officer has no access to a key or combination.

E. *Closed Container*: A container, which has no lock on it, or has a lock that is not locked.

IV. PROCEDURE: **41.4.1 (f)**

A. INVENTORY PROCESS:

1. **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 the same has properly been transferred to another officer.

If there is a third-party present who is lawfully able to assume custody of the subject's possessions, the officer should inquire of the subject whether he/she would prefer to entrust his/her possessions to that third party.

2. An inventory shall not be conducted in the following situations:
 - a. 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.
 - b. The vehicle is not to be removed and does not impede traffic flow and is not illegally parked.
3. **ALTERNATIVE TO POLICE TOW**: When the operator is **arrested**, and proposes that the vehicle be turned over to an identified person who is not under

arrest or otherwise incapacitated and who agrees to take charge of the vehicle, the officer should allow such arrangement as an alternative to police tow. The officer should inform the operator that the vehicle will be impounded unless the operator directs the officer to remove it in some lawful manner.

a. **However**, pursuant to Mass General Laws:

*"No motor vehicle impounded pursuant to an ARREST for violation of Massachusetts General Laws Chapter 90, Section 24, **Operating a Motor Vehicle Under the Influence of Alcohol [or Drugs] (OUI)**, may be released prior to the passing of **TWELVE (12) hours following the arrest.**"*

When the officer does not permit the third party to take charge of the vehicle, the reasons for ordering the tow shall be articulated in his/her Incident/Arrest Report.

4. **REMOVAL OF PROPERTY BY OWNER:** The owner or operator of the vehicle should be asked to remove all valuables from the vehicle prior to police tow. If there is a third party present who is lawfully able to assume custody of the subject's possessions, the officer should inquire of the subject whether he/she would prefer to entrust his/her possessions to that third party. Items not removed shall be inventoried.
5. **LOCATION OF INVENTORY:** Whenever the inspection and inventory at the scene of a crime are not safe or practical, they may be conducted at a storage facility.
 - a. Whether the inspection and inventory is conducted at the scene or at a storage facility, they should be conducted within a reasonably short period of time after the vehicle was taken into custody.
 - b. 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.

B. SEQUENCE OF INSPECTION AND INVENTORY:

1. **PROCESS:** The standard inventory process will consist of an inspection and inventory (*see Definitions*).
2. **EXTERIOR SEQUENCE:** The exterior of the vehicle shall be inspected for missing or damaged parts. The following order of inspection is recommended:
 - a. front of the vehicle;
 - b. right (passenger) side;
 - c. vehicle rear;
 - d. left (driver) side;
 - e. surface of the hood;
 - f. roof; and
 - g. trunk.

3. INTERIOR: The interior shall be inventoried according to the major areas of the vehicle. The following sequence is recommended: starting with the left front (driver) to the right front (passenger) areas, the visors, dashboard and unlocked glove compartment and under the front seats and mats. Next the rear seats from left to right, the area under the seat mats and seats, any rear deck above the back seats, and any space behind the seats shall be inventoried. Lastly, the trunk shall be unlocked and inventoried.
 - a. If the glove compartment 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 Motor Vehicle Inventory Form.
 - i. In many vehicles, a locked trunk may be opened from within the vehicle. In these vehicles, the trunk shall be opened and inventoried.
 - ii. 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
 - b. When an officer has probable cause that a closed locked container, a locked trunk or glove compartment contains explosives or incendiary devices, weapons or other substances that present 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. The seriousness of the case should be considered and a supervisor should make the final determination. **1.2.4 c; 1.2.4 e**
 - c. VALUABLE ITEMS: Items which appear to be valuable shall be noted on the Inventory Control Sheet, secured and/or removed according to departmental procedures and promptly brought to the attention of the Officer in Charge. Removable items shall be removed from the vehicle.
 - d. ANIMALS: 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.
4. DOCUMENTATION:
 - a. All damaged or missing vehicle parts and items found in the vehicle shall be recorded on the **Motor Vehicle Inventory Form**. Completed forms shall be electronically attached to and made a part of an officer's police report. Such report shall document all facts, information and circumstances justifying the towing of the vehicle. Original motor vehicle inventory control sheets will be placed in a bin in the Bureau of Records for filing in the archives.
 - b. Property removed from the vehicle shall be listed on the Motor Vehicle Inventory Form, stating the reason for removal and shall be immediately

- turned over to the department's Evidence/Property officer.
- c. Should the list of property removed from the vehicle be so large as to make the use of the Motor Vehicle Inventory Form impractical, the officer may list the items on a separate sheet and attach the same to the Motor Vehicle Inventory Form.
 - d. Officers must get authorization from a supervisor (usually the Patrol Supervisor) before legally towing a motor vehicle.
5. **DANGEROUS ITEMS:** Dangerous items shall be noted on the Motor Vehicle Inventory Form, secured and/or removed according to departmental procedures and promptly brought to the attention of the Officer in Charge. Removable items shall be removed from the vehicle.

C. INVENTORY OF CONTAINERS:

1. **DOCUMENTATION:** The presence of all containers and packages shall be noted on the Motor Vehicle Inventory Form. The officer shall document whether the container is closed or locked.
2. **UNLOCKED CONTAINERS:** All unlocked containers shall be opened and the contents shall be inventoried separately.
3. **LOCKED CONTAINERS:** If a key or lock combination is available, locked containers shall be opened and inventoried. All locked containers which cannot be opened shall be noted on the Motor Vehicle Inventory Form. When there is probable cause that a *locked container contains evidence of a crime, explosives or incendiary devices, weapons or other substances that present an immediate danger to the public or the officer, a search warrant may be obtained unless exigent circumstances make the delay impractical. The seriousness of the case should be considered and a supervisor should make the final determination.

* NOTE, probable cause that evidence of a crime in a locked container must be reasonable. The evidence must be of the size and shape that would reasonably fit into that particular container. Example; a shotgun would not fit in an average size shoe box. However, a hand gun would.

D. DISCOVERING EVIDENCE OF A CRIME:

1. **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 is conducted in accordance with this policy and procedure.
2. **SEIZURE:** Any article discovered as a result of a motor vehicle inventory may be seized if it is deemed to be:
 - a. contraband;
 - b. fruits of a crime; or
 - c. instruments of a crime.

ⁱ *Com v. Tisserland*, Mass.App.Ct. 383, 363 N.E.2d 530 (1977)

ⁱⁱ *Com v. Bishop*, 402 Mass. 449, 523 N.E.2d 779 (1988).

ⁱⁱⁱ Black's Law Dictionary, sixth ed.

MALDEN POLICE DEPARTMENT

IMPOUNDED MOTOR VEHICLE

INVENTORY CONTROL SHEET

DATE: _____

INCIDENT # _____

TIME: _____

CAD # _____

MV REG#	STATE	IMPOUND REASON									
YEAR	MAKE	MODEL		LOCATION							
VIN				TOW COMPANY							
OWNER				OFFICER (S)							
ADDRESS				AUTH. OFF.		RANK					
MOTOR VEHICLE CONDITION											
	GOOD	DAM	MISS.		GOOD	DAM	MISS.		GOOD	DAM	MISS.
FRONT SEAT				LIGHTS				L FRONT TIRE			
REAR SEAT				FRONT BUMPER				R FRONT TIRE			
MIRROR SIDE				REAR BUMPER				L REAR TIRE			
MIRROR REAR				MOTOR				R REAR TIRE			
RADIO				BATTERY				HOOD/GRILLE			
KEYS/IGNITION				HUB CAPS				L SIDE			
WIPERS				TRUNK				R SIDE			
ODOMETER READING:											
PERSONAL PROPERTY											
DESCRIPTION								SERIAL #		REMOVED FROM VEH	
REMARKS:											

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