

 Lexington Police Department	<u>Subject:</u> Motor Vehicle Inventory					<u>Policy Number:</u> 83C	
	<u>Accreditation Standards:</u> <u>Reference: 1.2.4(f)</u>					<u>Effective Date:</u> 1/1/11	
<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised	<u>Revision Dates:</u>	1/24/19	5/31/20				
<u>By Order of:</u> Mark J. Corr, Chief of Police							

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GENERAL CONSIDERATIONS AND GUIDELINES

Often times a vehicle may be impounded by the Lexington Police Department. A proper inventory system is put into place in order to provide a measure of accountability for items located in the vehicle. Regardless of the reason that a motor vehicle is towed and/or impounded it will be the policy of the Lexington Police Department to routinely inventory the contents of all motor vehicles coming into police custody.

A motor vehicle inventory is an administrative measure designed to:

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

These measures are discussed in **Commonwealth v. Garcia**, 409 Mass. 675 (1991)

This policy and procedure does not apply to searches, which are investigatory in nature. 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.

It is the policy of Lexington Police Department that:

- Motor vehicles, which are lawfully towed, removed, impounded or stored at the direction of police officers or placed in the custody of the police department, shall be inspected and inventoried according to the procedures in this policy.
- The authority to tow a vehicle rests with a supervisor holding the rank of Sergeant or above. The authority is outlined in M.G.L. Chapter 40 Section 22D, M.G.L. Chapter 85 Section 2C and in the Town By-Laws, Chapter 195 section 8 and 9.

PROCEDURE [1.2.4(f)]

A. Definitions

1. **Impound:** To take into custody by the Lexington Police Department.
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. Inventory shall also include locked and unlocked containers within the vehicle.
4. **Inventory Sheet:** An inventory sheet is the Department authorized form for recording items found within a vehicle. The form shall be filled out with as much descriptive information as possible. The blank forms are located in the front of the motor vehicle inventory binder at the front desk. When the forms are completed they are to be reviewed and initialed by the Commanding Officer and added to the binder in sequential order with the most recent on top.

B. Inventory Process

1. **Responsibility:** The officer directing that a vehicle be towed, removed, impounded or stored should inspect and inventory the vehicle and its contents. This duty may be transferred to a secondary officer.
2. It is not necessary to conduct an inventory 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. The owner, operator or other person in charge of or in control of the motor vehicle 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.
 - c. We assist the owner/operator in obtaining a tow and [s]he accompanies the vehicle to a location other than police storage.
3. Alternative to Police Tow:
Impoundment must not occur when police have a reasonable alternative to towing. A reasonable alternative to towing exists if either: (1) a competent, alternative operator is available to legally drive the vehicle from the scene; or (2) the vehicle can be left lawfully parked at the location where police encountered it.
- A competent, alternative operator must be:
 1. Present at the scene before officers notify the tow company **Commonwealth v. Ellerbe, 430 Mass. 769 (2000)**, and
 2. In possession of a valid driver's license; and
 3. Approved by the owner, or someone clearly authorized by the owner, to take custody of the vehicle **Commonwealth v. Nicholas, 93 Mass. App. Ct. 1123 (2018)**
 - Lawfully parked means that the vehicle is secure **Commonwealth v. Lugg, 2014 WL 6847704 (Appeals Court)** and legally parked in a public or private location. Secure means that the vehicle is locked with the windows closed.
4. Removal of Property by Owner: The owner or operator of the vehicle, unless arrested, should be asked to remove all valuables from the vehicle prior to police tow to a storage facility. Items not removed shall be inventoried.
5. Location of Inventory: Whenever the inspection and inventory at the scene are not safe or practical, they may be conducted at the police station or a storage facility.
- a. Whether the inspection and inventory is conducted at the scene, the police station or a storage facility, they should be conducted within a reasonable 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 should follow the tow truck to the storage facility.

C. 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. This inspection is not intended to be a full detailed list of all damage but should cover recent or obvious damage and

missing parts. The following order of inspection is a **recommended** pattern to help the officer:

- a. front of the vehicle;
- b. right (passenger) side;
- c. vehicle rear;
- d. left (driver) side;
- e. surface of the hood;
- f. roof (if easily accessible);
- g. trunk; and
- h. The undercarriage areas (if easily accessible).

3. Interior

- a. 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/map box areas and under the front seats and mats. Next the rear seats from left to right; the area under seats and mats, any rear deck above the back seats, and any space behind the seats shall be inventoried. Lastly, the trunk shall be unlocked and inventoried.

Note: these are recommendations; we understand that officers in the field may have a method that works better for them in regards to documentation. Often times, newer vehicles have an abundance of storage spaces. Officers should be cognizant of storage areas, including floor storage, center consoles, door pockets and pockets behind seats and any other places items can be stored.

- b. If the glove/map box, center console and/or trunk are locked and the officer cannot open it with a key or from within the vehicle, the location and reason should be noted on the inventory form.
 - c. In many vehicles, a locked trunk may be opened from within the vehicle without a key. In these vehicles, the trunk shall be opened and inventoried.
 - d. 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.
4. Valuable Items: Items which appear to be valuable shall be noted on the Inventory Form, depending on their nature and size they may be secured in the vehicle or removed and promptly brought to the station for storage in the temporary evidence locker.
5. 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. If animal control is not available,

officers will consult with their Road Supervisor or Commanding Officer to discuss the best course of action.

6. Documentation

- a. All damaged or missing vehicle parts and items found in the vehicle should be recorded on the Motor Vehicle Inventory Form. Completed forms should be brought to the Commanding Officer for inspection, initialed and placed in the Motor Vehicle Inventory Binder, sequentially by case number.
- b. Property removed from the vehicle by police shall be listed on the Motor Vehicle Inventory Form, stating the reason for removal. Its removal and storage should be consistent with proper evidence and patrol procedures.
- 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. 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 open or closed and/or unlocked 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 with a key, combination or without damaging should have their description and fact that it was locked noted on the inventory form.
4. 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 officer, a search warrant shall be obtained unless exigent circumstances make the delay impractical.

E. 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 search is conducted in accordance with this policy and procedure.
2. When an officer has probable cause that a locked trunk or glove/map box contains explosives, weapons or other substances that present an

immediate danger to the public or the officer, a search warrant shall be obtained unless exigent circumstances make the delay impractical.

3. Seizure: Contraband, fruits, instrumentalities or other evidence of a crime, which is inadvertently discovered during an inventory search shall be seized and handled according to department policy and procedure.
 - a. Once probable cause has been established that there is evidence of a crime the vehicle should be towed to the police station, and;
 - b. Although the vehicle can be searched more closely for evidence of the crime under the motor vehicle exception;
 - c. The commanding officer should be consulted about obtaining a search warrant.

F. Review of Motor Vehicle Inventory Form

1. Completed Inventory Forms should be handed to the Commanding Officer for review. The Commanding Officer should initial the form, prior to it being placed in the Police Inventory Form Binder.

INVENTORY "Every Time."

The integrity of this Motor Vehicle inventory policy is fundamentally based on the concept that this is a safety protocol conducted **every time** a vehicle is taken into police custody. The failure to perform an inventory, and submitting the inventory to the Commanding Officer for inclusion in the Inventory Manual, must be thoroughly documented.

~~Any pattern of failure may jeopardize criminal cases.~~

G. Hazardous or Dangerous items

1. During an inventory an officer may discover an item(s) that raises safety concerns about its storage (i.e. Firearms, explosives, flammable agents, etc.). Any number of items may be considered hazardous and/or dangerous.
2. If any item(s) is discovered that an officer believes may be dangerous in its present state, the Commanding Officer should immediately be advised of the situation.
3. The officer should be cognizant of the immediate safety issues that arise in these situations. Including but not limited to perimeter safety and calling for additional resources.