



Fitchburg State University Police Department

**Subject: TOWING AND ABANDONED
VEHICLES**

Reference: IACLEA: 10.3.5
MPAC: 1.2.4, 61.4.3,

Rescinds: Section 76

Effective Date:
November 19, 2020

Review Date:

By Order of: Michael J. Cloutier, Chief of Police

General Order

10.3.3

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 police department. This 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 Department, police personnel, and the tow company against claims of lost, stolen, or vandalized property; and
3. 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 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.

POLICY:

- A. It shall be the policy of the Fitchburg State University 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:

MPAC 1.2.4 f

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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; *MPAC 1.2.4 g*
 3. 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.
 4. Large numbers of cars will require towing due to nature-related emergencies (i.e. Snow removal); or Special conditions requiring prompt removal prevent the taking of an inventory before the vehicle is removed.
- B. Notwithstanding the foregoing, it is the policy of the 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;
 2. The vehicle is abandoned or involved in trespass on private property; or
 3. The vehicle cannot be lawfully operated.
 4. Stolen
 5. Multiple University Parking Tickets (Scofflaw)
 6. Snow Emergencies
- IACLEA 10.3.5 a / MPAC 61.4.3*
- C. 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.

DEFINITIONS:

A. **Abandoned Vehicles:** Vehicles parked on Fitchburg State University property are presumed to be abandoned when they are parked in an area without proper vehicle registration. Vehicles with evidence of non-use parked on campus for one full semester or more can also be considered abandoned.

B. **Impound:** To take into custody of the law

Note: 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.

C. **Inspection:** An examination of the exterior and interior of the vehicle for damaged or missing parts.

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- D. **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.

PROCEDURES:

A. AUTHORITY TO TOW VEHICLES

1. Fitchburg State University Police officers derive their authority to tow vehicles from Massachusetts General Law Chapter 73 § 18 and Chapter 15A § 22.
2. Fitchburg State University Parking Regulations are defined by the Parking committee and approved by the university's Board of Trustees.

B. INVENTORY PROCESS

1. Any vehicle that is towed, removed, impounded, stored at the request of the Department, or otherwise placed in the custody of the Department is to be inspected and an inventory of its contents and general condition shall be recorded on the motor vehicle inventory form (FS29_Motor Vehicle Inventory Control Form).
 - a. 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. *MPAC 1.2.4 d*
 - 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.
 - c. Inventory of items shall specifically describe such things as:
 - i. The item Make, Model & Type
 - ii. The item Serial Number if available
 - iii. Amount (of money or number of items)
 - iv. Any other identifying descriptions
2. It shall be the responsibility of the member of the department requesting the tow to:
 - a. Secure any monies or articles of value that cannot be properly secured by the tow company in accordance with procedures set forth in the department policy and procedure entitled Evidence and Property Handling Procedures.
 - b. 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:
 - i. Location of the towed vehicle;

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- ii. Reason for the tow; and
 - iii. Contents removed.
- c. Contact dispatch to have an appropriate entry made in the Department's Computer Aided Dispatch System as to the description of the vehicle towed and the tow company.
- 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 policy and procedure entitled Evidence & Property Handling Procedures. 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 and the vehicle identification number (VIN).

C. SEQUENCE OF INSPECTION AND INVENTORY

- 1. 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 truck, 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 such areas cannot be accessed by the officer, this shall be noted on the Motor Vehicle Inventory Form.
- 2. When an officer has probable cause that a locked depository and/or container contains a dangerous item which 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 a supervisor should make the final determination. *MPAC 1.2.4 c; 1.2.4 e*
- 3. 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. TOWING DURING SNOW AND OTHER EMERGENCIES

- 1. When officers must tow several vehicle from a lot due to lot closures or snow removal they will:
 - a. Contact Dispatch with the vehicle and registration information.
 - b. Conduct a visual inspection of the vehicle exterior for damage and the interior passenger compartment from the outside noting any obviously expensive items.

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- c. Document all vehicles in a single incident report which contains:
 - i. All vehicle towed from a lot
 - ii. In the narrative description per vehicle of any damage or no damage
 - iii. In the narrative an itemization of any valuables.
 - iv. Where the vehicles were towed. (often this is beside the Landry Arena)

E. DISCOVERING EVIDENCE OF A CRIME

1. 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 and the discovery of such evidence is incidental to the inventory.
2. 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:
 - a. Contraband
 - b. Fruits of a crime
 - c. Instruments of a crime
 - d. Evidence of a crime

F. MAINTENANCE OF TOW RECORDS:

1. Whenever a vehicle is towed at the discretion of an officer, a tow form shall be completed. The Dispatcher will be notified of the description and location of the vehicle, and the reason for the tow.
 - a. The officer will complete the tow form ensuring that all of the appropriate information is obtained and recorded on the form and complete entries in the tow log book in dispatch.
 - b. If possible, the officer completing the inventory shall obtain the signature of the tow operator or tow company representative
 - c. One copy of the tow form (white copy) will be retained in dispatch where it will be stored in the department tow log book.
 - d. A second copy (pink) will be left with the vehicle/operator.
 - e. A third copy (yellow) will be given to the tow truck operator.

IACLEA 10.3.5 b & c / MPAC 61.4.3 c

Approval:

Chief of Police



Date

11/19/2020