

# Truro Police Department

## MOTOR VEHICLE TOWING & INVENTORY

*Policy Number: OPS-6.04*

*REFERENCE:*

*TPDM Standing Motor Vehicles OPS-6.10*

*Effective Date: June 1, 2000*

*Revised Date: April 20, 2004*

*Accreditation Standards:*

*Other: M.G.L 266 § 120D; Comm v. Brinson, 440 Mass. 609, 800N.E. 2<sup>nd</sup> 1032 (2003)*

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### **POLICY:**

When authorized to remove vehicles, officers will remove such vehicles to a place of safety in order to ensure the security of the vehicle and the safe and efficient flow of traffic.

This policy is designed to protect the owner's property, protect officers against claims of lost/stolen items, protect officers from dangerously concealed items, and protect the public against hazardous roadway obstructions.

Due to the rural setting of the Town of Truro, the policy of the Truro Police Department shall stop and investigate all vehicles, occupied or unoccupied, all vehicles found standing on or off roadways, rest areas, closed businesses, or any other location which an officer may deem necessary. (See Standing Motor Vehicle Police OPS-6.10)

### **PROCEDURE:**

1. Officers are authorized to remove vehicles, or cause to remove vehicles found upon a road/highway when:
  - A. The vehicle was stolen or taken without consent of the owner.
  - B. The vehicle is disabled and is or could be a potential hazard.
  - C. The vehicle is an obstruction of the flow of traffic

- D. The operator of the vehicle is physically arrested and the vehicle would be left unattended in a public access area or public way.
    - 1. Officers shall not remove an arrested subject's vehicle if properly parked in a private owned parking area, unless posted no trespassing, or absent a request from the owner to remove said vehicle. *(Revised April 20, 2004)*
    - 2. The community caretaker function will not apply where the vehicle was not disabled, illegally parked or impeding traffic. *(Revised April 20, 2004)*
    - 3. A lawful inventory search is contingent on the propriety of the impoundment of the vehicle. The impoundment for non-investigatory reasons is generally justified if supported by public safety concerns, danger, theft or potential harm or vandalism if left unattended. *(Revised April 20, 2004)*
  - E. The vehicle is improperly parked or standing.
    - 1. A DMV tag will be filled out and placed on the vehicle
    - 2. The vehicle registration will be called in to dispatch with the location.
    - 3. The Officer in Charge or dispatch shall attempt to contact the owner regarding removal.
    - 4. If the vehicle is not in a hazardous area, or is not in the immediate way of other motorists, the officer shall leave the vehicle for a reasonable period of time, but shouldn't exceed twenty-four hours.
  - F. The vehicle's operator is not properly licensed, and there are no properly licensed occupants.
  - G. The vehicle is not properly registered/insured.
  - H. The vehicle, in its current condition, is too unsafe or dangerous to operate.
  - I. Adverse weather conditions or other emergency reasons necessitate the removal in the interest of public safety.
  - J. A disabled vehicle has not been moved in a timely, as outlined above in (section E-4) manner, but has not yet been considered abandoned.
2. If a vehicle is to be removed, the officer shall notify dispatch of the registration, location, and the type of vehicle.

- A. The Telecommunicator or officer shall then summon a duty tow truck to remove the vehicle.
  - B. The Telecommunicator or Officer shall notify a local towing service by using a rotation system created and kept at dispatch.
    1. If a towing company refuses to respond, a second will be called.
    2. If the second towing company refuses to respond, the officer shall make a determination of what company to use based on the best interests of the owner and public safety.
  - C. If the owner or operator in charge of the vehicle requests a towing company, the request shall be granted and attempts will be made to contact the company for immediate removal. If the requested company does not show up, or if they cannot tow the vehicle within a reasonable period of time, the rotation system or other means shall be utilized in order to expedite the removal. Requests will not be honored if there is urgency in removing the vehicle.
  - D. The vehicle will be stored at the towing company's facility.
3. In the event that a vehicle is evidence of a crime, guidelines for securing a warrant will be followed if needed prior to removal. Any vehicles removed as evidence of a crime shall be stored at the Truro Police Department.
  4. All vehicles, regardless of the reason, will be inventoried, and the record kept as part of the incident, with the following exceptions.
    - A. When a disabled motor vehicle is towed at the owners or operator's request, and that person is present with the vehicle
    - B. The prescribed *MOTOR VEHICLE INVENTORY FORM* will be used in all inventories.
    - C. Any article found the result of the inventory that is deemed to be the following may be seized and held for further investigation.
      1. Fruit of a crime
      2. Contraband
      3. Instruments of illegality
    - D. Any closed unlocked container found inside or on a vehicle subject to an inventory shall open and the contents listed.

- E. Attempts will be made to secure any monies and articles deemed to be of significant value that cannot be properly secured by the tow company.
  - 1. Any valuables may be taken to the Truro Police Department for safekeeping. These items shall be recorded, labeled and placed into a secure evidence locker, as if it were evidence.
  - 2. The valuables secured by the department shall be released in the same method as evidence, and shall require proof of ownership upon release.
- 5. The removal of vehicles from private property can be effected in the following circumstances:
  - A. Where a motor vehicle stop and subsequent custody was affected and the operator encroached into another property without permission, but without intention to trespass.
  - B. Where a motor vehicle was used in the commission of a crime, and that a warrant (if needed) was issued.
  - C. Where a motor vehicle was left on private property without permission, and the private property was clearly posted “no trespassing”. The vehicle can be removed at the vehicle owner’s expense, and a summons should be issued for trespassing to the last known operator or owner.
  - D. When a motor vehicle is parked on private property without permission, and the property owner wishes the vehicle moved, the police may arrange a tow of the vehicle.
    - 1. An inventory must be completed
    - 2. The property owner becomes liable for the tow and any cumulative charges
    - 3. A private tow form should be filled out prior to removal
- 6. If a motor vehicle is deemed abandoned, refer to the Truro Police Department Manual (Traffic, Investigations, Direction and Control section OPS-6.12).
- 7. Standing motor vehicles/disabled motor vehicles will be dealt with in the following manner:
  - A. Officers will advise the vehicles registration and location.
  - B. A check for occupants to ascertain the following:

1. Well being of occupants
2. Whether or not the occupant(s) is experience difficulties
3. Officers will assist in any manner as deemed appropriate, with the following exceptions:
  - a. Officers will not use cruisers to push vehicles, or to jump start vehicles at any time.
  - b. Officers will not physically push a vehicle except in extreme emergencies.
8. The Telecommunicator shall record all vehicles removed, stored or towed at the direction of an officer in the (in house computer system).

**PRIVATE PROPERTY TOW**

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|   |              |       |
|---|--------------|-------|
| Name of property owner                    |              |       |
| Name of person requesting tow             |              |       |
| Address                                   |              |       |
| Telephone                                 |              |       |
| Vehicle Make/Model                        | Registration | Color |
| VIN                                       |              |       |
| Location of tow                           |              |       |
| Tow Company and location vehicle removed. |              |       |

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I \_\_\_\_\_, have read and understand Massachusetts General Law c.266 s.120D, and agree to abide by the conditions set forth.

\_\_\_\_\_  
Signature of property owner

\_\_\_\_\_  
Signature of Officer

Incident \_\_\_\_\_

Date \_\_\_\_\_

**GENERAL LAWS OF MASSACHUSETTS****Chapter 266: Section 120D.****Removal of motor vehicles from private ways or property; procedure; penalties; liability for removal and storage charges; release of vehicle.**

Section 120D. No person shall remove a motor vehicle which is parked or standing on a private way or upon improved or enclosed property unless the operator of such vehicle has been forbidden so to park or stand, either directly or by posted notice, by the person who has lawful control of such way or property. No vehicle shall be removed from such way or property without the consent of the owner of such vehicle unless the person who has lawful control of such way or property shall have notified the chief of police or his designee in a city or town, or, in the city of Boston the police commissioner, or a person from time to time designated by said police commissioner, that such vehicle is to be removed. Such notification shall be made before any such vehicle shall be removed, and shall be in writing unless otherwise specified by such chief of police or police commissioner and shall include the address from which the vehicle is to be removed, the address to which the vehicle is to be removed, the registration number of the vehicle, the name of the person in lawful control of the way or property from which such vehicle is being removed, and the name of the person or company or other business entity removing the vehicle. Vehicles so removed shall be stored in a convenient location. Neither the city or town, nor its chief of police or police commissioner or his designee, shall be liable for any damages incurred during the removal or storage of any such vehicle removed under this section. Any person who, without notifying the chief of police or his designee, or the police commissioner or his designee, or without obtaining the consent of the owner, removes a vehicle from a private way or from improved or enclosed property as aforesaid, shall, in addition to any other penalty of law, be punished by a fine of not more than one hundred dollars. The employer of such person if any, shall also be punished by a fine of not more than one hundred dollars.

Any person who purports to authorize the removal of a vehicle from a way or property as aforesaid without having fully complied with the provision of this section shall be punished by a fine of not more than one hundred dollars.

In addition to any other penalty provided by law, the registered owner of a vehicle illegally parked or standing on a private way or upon improved or enclosed property shall be liable for charges for the removal and storage of such vehicle; provided, however, that the liability so imposed shall not exceed the following, and provided, further, that the vehicle has been removed after compliance with the provisions of this section:

*[Clause (1) of the third paragraph effective until November 25, 1997. effective November 25, 1997, see below.]*

(1) the maximum amount for towing or transportation of motor vehicles established by the department of public utilities for motor vehicles towed away when such towing is ordered by the police or other public authority under the provisions of section six of chapter one hundred and fifty-

(1) the maximum amount for towing or transportation of motor vehicles established by the

department of telecommunications and energy for motor vehicles towed away when such tow is ordered by the police or other public authority under the provisions of section six B of chapter one hundred and fifty-nine B; and (*Amended by 1997, 164, Sec. 288 eff. 11-25-97.*)

(2) the maximum charge for storage of non-commercial passenger motor vehicles with a maximum capacity of nine persons, shall be not more than the maximum storage charge allowed under the provisions of said section six B of said chapter one hundred and fifty-nine B.

A person lawfully holding a vehicle removed under the provisions of this section may hold such vehicle until the registered owner pays the removal and storage charges.

Any person who is called to remove by towing a vehicle illegally parked or standing on a private way or upon improved or enclosed property may, at his discretion, if the owner appears to remove said vehicle before the towing is completed, charge said owner one half of the fee usually charged for such towing.

Any person who removes a vehicle illegally parked or standing on a private way or upon improved or enclosed property, or holds such a vehicle after its removal, and who has not complied in M with the provisions of this section, shall release such vehicle to its owner without assessing any charges for its removal or storage.



# Truro Police Department

*"...dedicated to public service..."*

John J. Thomas, Chief of Police



## MOTOR VEHICLE INVENTORY

|                      |  |  |                       |       |  |
|----------------------|--|--|-----------------------|-------|--|
| Incident #           |  | Date   |                       | Time  |  |
| Reason for Inventory |  |  | Location of Inventory |       |  |
| Registration #       |  | State  | Make                  | Color |  |
| VIN#                 |  | 2dr <input type="checkbox"/> 4dr <input type="checkbox"/> Wagon <input type="checkbox"/> Truck <input type="checkbox"/> Van <input type="checkbox"/> |                       |       |  |
| Contents of Vehicle  |  |  |                       |       |  |
| Damage of Vehicle    |  |  |                       |       |  |

|                             |              |
|-----------------------------|--------------|
| Operator's name and address |              |
| Owner's name and address    |              |
| Location towed to           |              |
| Tow company                 |              |
| Time requested              | Time arrived |
| Report Officer              | ID#          |

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