

DENVILLE TOWNSHIP POLICE DEPARTMENT POLICY & PROCEDURES			
VOLUME: 3	CHAPTER: 20	# OF PAGES: 8	
SUBJECT: MOTOR VEHICLE IMPOUND & INVENTORY			
BY THE ORDER OF: Chief of Police Christopher Wagner		ACCREDITATION STANDARDS: 3.1.1f	
Effective Date: 02/11/2013		SUPERSEDES ORDER #:	

- PURPOSE** The purpose of this policy is to provide department personnel with standardized, predetermined and nondiscriminatory procedures to follow whenever a motor vehicle is to be towed, impounded and/or its contents inventoried.
- POLICY** It is the policy of the Denville Township Police Department that no vehicle shall be impounded as a matter of routine, convenience, or without a substantial law-enforcement need. Similarly, no inventory of the contents of a vehicle, or other receptacle contained within, may be conducted as a matter of routine, convenience, or as an exploratory investigative tool unless in compliance with V3C5 Search & Seizure.

PROCEDURES

I. Definitions

- A. **Impoundment/Impounding** – is the seizing and temporary custody of a motor vehicle for a legitimate law enforcement purpose.
- B. **Public Assistance Towing** – is the towing of disabled and other motor vehicles for public assistance or for purposes of public safety. While this towing may involve a legitimate law enforcement purpose, it normally does not involve custody of the vehicle by the agency or authorization of the police for its release. Public assistance towing includes vehicles involved in collisions with no companion need to impound for a law enforcement purpose.

II. General

- A. Motor vehicles shall not be impounded for purposes other than those defined by statute or ordinance, (e.g., not as a form of punishment, or as a pretext to conducting vehicle searches when probable cause does not exist or consent to search cannot be obtained).
- B. When an officer tows a motor vehicle for any reason, he/she shall assist the motorist in making arrangements for the safe transport of the driver and any passengers. Arrangements shall be liberally construed and include, but are not limited to:
 - 1. Transporting them to a phone;
 - 2. Making sure transportation is going to arrive;
 - 3. Bringing them to headquarters or other public place to make their own arrangements
- C. If the driver (or passenger) cannot arrange for transportation on his/her own, the officer should attempt to arrange transportation for him/her including, as a last resort and with supervisor approval, transportation to their home or nearest reasonably safe location.
- D. ***At no time shall operators or passengers of impounded vehicles be left to fend on their own without assistance.***
- E. If a driver/owner or passenger(s) declines assistance with transportation and the vehicle is towed/impounded at the direction of an officer for any reason, the officer shall note their refusal on the Investigation Report.
- F. Impounding a vehicle that lawfully comes in possession or under the control of agency personnel and inventorying its contents are permitted solely for the:
 - 1. Protection of the owner's property; or
 - 2. Protection of the investigating officer and the agency against claims of lost or stolen property; or
 - 3. Protection of the investigating officer and others from potential danger; or

4. Safeguarding of evidence in connection with the criminal activity.

III. Vehicle Impound Not Dependent Upon the Presence of the Owner or Authorized User

- A. A motor vehicle can be seized and impounded when it is determined that:
 1. There is probable cause to believe the vehicle is unregistered;
 2. There is probable cause to believe the vehicle is uninsured (**NOTE:** failure to locate a valid insurance card cannot be the sole reason for establishing such probable cause and the vehicle must be registered in the State of New Jersey);
 3. The vehicle is unlawfully obstructing traffic or in a specially designated or restricted area or zone; or
 4. Reasonable grounds exist to believe that the vehicle is in violation of N.J.S. 39:4-136, which reads in pertinent part:

"Any vehicle, upon a roadway, which is disabled to the extent that the operator cannot move it, or any unoccupied vehicle parked or standing in violation of this chapter shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any peace officer may provide for the removal of such vehicle."
 5. The vehicle is mechanically defective and is creating a threat to the public safety or is a nuisance and menace to the safe and proper regulation of traffic.
 6. Probable cause exists to believe that the vehicle constitutes an instrumentality or fruit of a crime and that absent immediate impoundment, the vehicle will be removed by a third party;
 7. Probable cause exists to believe that the vehicle contains evidence of a crime and that absent immediate impoundment; the evidence will be lost or destroyed;
 8. Probable cause exists to believe the vehicle is currently stolen or wanted as a result of an Unlawful Taking of Means of Conveyance.
 9. The vehicle is abandoned.
- B. A motor vehicle may be seized and impounded when there is probable cause to believe that the vehicle contains contraband or evidence of criminal activity and the seizure and removal of the vehicle is authorized by a recognized exception to the written warrant requirement. A subsequent search of the vehicle or contents must comply with V3C5 Search & Seizure.

IV. Vehicle Impound When the Owner or Authorized User is Present

- A. A vehicle may be impounded when the owner or authorized user consents to the impoundment or, after being given a reasonable opportunity to do so, cannot or will not make reasonable prompt arrangements for the vehicle's removal from the

public or quasi-public roadway or area on which it is situated. Owner's consent is not needed if it is determined that:

1. There is probable cause to believe the vehicle is unregistered;
 2. There is probable cause to believe the vehicle is uninsured (**NOTE:** failure to produce a valid insurance card cannot be the sole reason for establishing such probable cause and the vehicle must be registered in the State of New Jersey);
 3. The vehicle is unlawfully obstructing traffic or in a specially designated or restricted area or zone; or
 4. Reasonable grounds exist to believe that the vehicle is in violation of NJSA 39:4-136, which reads in pertinent part:

"Any vehicle, upon a roadway, which is disabled to the extent that the operator cannot move it, or any unoccupied vehicle parked or standing in violation of this chapter shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any peace officer may provide for the removal of such vehicle."
 5. The vehicle is mechanically defective and is creating a threat to the public safety or is a nuisance and menace to the safe and proper regulation of traffic.
 6. Probable cause exists to believe that the vehicle constitutes an instrumentality or fruit of a crime and that absent immediate impoundment, the vehicle will be removed by a third party;
 7. Probable cause exists to believe that the vehicle contains evidence of a crime and that absent immediate impoundment; the evidence will be lost or destroyed;
 8. Probable cause exists to believe the vehicle is currently stolen or wanted as a result of an Unlawful Taking of Means of Conveyance.
- B. A vehicle subjected to the registration restrictions of NJSA 39:3-40.1 and NJSA 39:3-40.2 may be impounded in accordance with the provisions of NJSA 39:3-40.3.
- C. If the owner or authorized user **does not** consent to the impoundment and cannot or will not make other arrangements for the removal or custody of his/her vehicle, and none of the circumstances set forth in this subsection exists, the vehicle shall not be impounded.
1. Under these circumstances, the motorist will be presumed to have assumed risk for any claims of property loss, theft or damage, and the motorist shall be so advised.
 2. Whenever the owner or authorized user cannot or will not make other arrangements for the removal or custody of his/her vehicle, the officer shall so note the fact in his/her Investigation Report.
 3. The process shall be captured on the vehicle's MVR, to the extent possible.

- D. If the owner or authorized user **does** consent to the impoundment of the vehicle, the owner or authorized user must nonetheless be given the option of either consenting to an inventory or making his or her own arrangements for the removal and safekeeping of the property contained in the vehicle see subsection VIII.

V. Impounding a Motor Vehicle Operated by Intoxicated Person

- A. In accordance with NJSA 39:4-50.23, a motor vehicle shall be impounded for at least 12 hours, or until such time as the vehicle's operator is not in violation of NJSA 39: 4-50, when the vehicle's operator has been arrested for violation of NJSA 39:4-50 (DWI) or 39:4-50.4a (Refusal to Submit to Chemical Breath Testing). However, Appendix B of the [Attorney General's Directive 2004-1](#) affords the arrested person the right to make other arrangements for the removal of the vehicle.
1. If there is a passenger in the vehicle at the time the operator is arrested, or if there is another person readily available and willing to assist the arrestee, the arrestee may permit that passenger or other person to operate and remove that vehicle and make arrangements for its removal without the vehicle being impounded. The person taking control of the vehicle on behalf of the arrestee:
 - a. Must present a valid operator's license, proof of ownership, or lawful authority to operate motor vehicle; and
 - b. Must present proof of valid motor vehicle insurance for that vehicle (NJ registered vehicle only); and
 - c. Must be able to operate the vehicle in a safe manner and not otherwise be in violation of New Jersey Motor Vehicle & Traffic Code, Title 39.
 2. A vehicle impounded pursuant to this section may be released to a person other than the arrestee prior to the end of the 12-hour impoundment period only if the vehicle is:
 - a. Not owned or leased by the person under arrest and the person who owns or leases the vehicles claims the vehicle and meets the conditions for release in subsection VI.C; or
 - b. Owned or leased by the arrestee, the arrestee gives permission to another person, who has acknowledged in writing receipt of the POTENTIAL LIABILITY WARNING statement required by NJSA 39:4-50.22 to operate the vehicle, and the conditions for release in subsection V.C are met. The POTENTIAL LIABILITY WARNING statement required by N.J.S. 39:4-50.22 is set forth in Appendix A of the [Attorney General's Directive 2004-1](#), along with the applicable guidelines.
 3. If the arrestee cannot or will not make reasonably prompt arrangements for removal of the vehicle, the vehicle shall be impounded for a period of 12 hours after the time of arrest or until such later time as the arrestee claiming the vehicle meets the conditions for release in subsection VI.C.

VI. Return of Vehicles

- A. No vehicle impounded for criminally related purposes can be released without authorization from a division commander or other higher-ranking officer within the department.
- B. Vehicles seized for forfeiture purposes shall not be returned to the owner without written authorization from the Morris County Prosecutor's Office.
- C. No vehicle impounded pursuant to this policy shall be released unless the person claiming the vehicle:
 - 1. Presents a valid operator's license, proof of ownership or lawful authority to operate the motor vehicle (such as a notarized letter);
 - 2. Presents proof of valid insurance for that vehicle, if the vehicle is being driven from impound and is registered in the State of New Jersey;
 - 3. Must be able to operate the vehicle in a safe manner and not otherwise be in violation of the New Jersey Motor & Traffic code, Title 39; and
 - 4. Meets the conditions of NJSA 39:4-50.22;
 - 5. Meets any other conditions for release established by this department.
- D. Impounded vehicles shall be released to owners with any conditions set forth by impounding officer in the Impound Form. All documentation shall be presented at police headquarters where the shift commander or his/her designee shall authorize the release.

VII. Documentation & Notification

- A. Vehicles towed as a public assist (crash investigations with no criminal investigation, disabled vehicles, etc.) do not require any specific form or report.
- B. An Impound Form shall be completed for all impounded and/or seized motor vehicles and made a part of the case file.
- C. When there is reason to believe that a motor vehicle or other property is subject to forfeiture, the Detective Bureau Commander, Evidence/Property Custodian, and the Morris County Prosecutor's Office shall be promptly notified.

VIII. Inventory Procedures

- A. Inventory of contents of motor vehicles impounded for non-criminal matters when the owner or authorized user is present:
 - 1. In the absence of a search warrant or a recognized exception to the warrant requirement, no inventory may be conducted unless the owner or authorized user consents to the inventory.
 - 2. In the absence of consent, the owner or authorized user shall be given a reasonable opportunity to make other arrangements for the removal and safekeeping of the property contained in the vehicle.

3. If the owner or authorized user cannot or will not consent to the inventory, and cannot or will not make other arrangements for the safekeeping of the property contained in the vehicle, an inventory may not be undertaken. In such circumstances, the vehicle owner or authorized user will be presumed, as a matter of law, to have assumed risk for any property loss or theft arising from the impoundment, and the owner or authorized user will be so advised and this advisement will be noted in the officer's Investigation or Impound Form.
 4. Vehicle operators may be permitted to remove unsecured valuables of a non-evidentiary nature from the vehicle prior to its removal for impoundment. The nature of these valuables should be noted on the appropriate reporting document.
- B. Inventory of contents of motor vehicles when the owner or authorized user is absent:
1. If the owner or authorized user is not present at the time the vehicle is impounded and cannot be located within a reasonable period of time, officers must demonstrate a substantial police need to justify an inventory to:
 - a. Protect the owner's property while in police custody;
 - b. Protect the agency against claims over lost or stolen property; or
 - c. Protection of the police from physical danger.
 2. If this need is satisfied, a thorough inventory of the vehicle's contents shall be conducted. Routine inventories are prohibited.
- C. Inventory of contents of motor vehicles impounded for criminally-related or forfeiture purposes:
1. A thorough inventory shall be conducted of an impounded motor vehicle when there is probable cause to believe the vehicle:
 - a. Is stolen;
 - b. Contains evidence of criminal activity and the circumstances surrounding the vehicle's seizure create such an exigency that it makes it impractical to secure a search warrant. (See V3C5 Search and Seizure for possible exigency factors)
 - c. Is being held pending forfeiture.
 - 1) Before searching a vehicle being held for forfeiture, officers/detectives must discuss the disposition of the owner's personal property with them. Where it is feasible to do so, the owner must be given the option of either consenting to the inventory or making arrangements for the safekeeping of his/her personal property. If the owner is unable to make arrangements for the property, an inventory will still be conducted.

- 2) Any personal property collected during the inventory of a vehicle being held for forfeiture must be returned to the owner.
- D. The officer/detective, who initially seized, impounded, or otherwise exercised control over the vehicle, should perform the inventory. All inventories shall be conducted with reasonable care and circumspection and the inventory shall be documented on a Property Report.

