

WATERTOWN POLICE DEPARTMENT GENERAL ORDER



JOANNA W. VITEK
CHIEF OF POLICE

Effective Date: July 1, 2009	Rescinds: Amends: B-130 (January 2008)	Number: B-172
Subject: Vehicle Search, Inventory, Towing and Impoundment		Re-evaluationDate: July 2012
Distribution: ALL PERSONNEL	Related CALEA Standards:	

This order consists of the following numbered sections:

1. Purpose
2. Policy
3. Definitions
4. Procedures
5. References

1. PURPOSE

The purpose of this policy is to ensure Departmental uniformity when dealing with towing illegally parked, abandoned, evidentiary, recovered stolen vehicles, specified vehicles involved in traffic crashes, warrantless vehicle searches, and inventory searches.

2. POLICY

It is the policy of the Department to ensure that vehicles are towed and removed or impounded and searched in accordance with applicable laws and provisions of this procedure. No officer may tow any vehicle from either public or private property without good cause or reasonable suspicion. The necessity for towing, storing, or impounding a vehicle will be articulated in the officer's reports.

3. DEFINITIONS

- a. ABANDONED VEHICLE - any vehicle which does not have an identifiable or readily locatable owner and which has been abandoned on public property in a wrecked, inoperative, or partially dismantled condition or which has no apparent intrinsic value to the rightful owner.
- b. OWNER - registered owner or designee.

4. PROCEDURES

a. Recovered Stolen Vehicles

i. Watertown Department Authority- (no arrest made)

1. When a vehicle is reported stolen within the City limits and recovered within the City limits, police personnel will respond and process the vehicle for latent fingerprints and other relevant evidence. Photographs and/or video may also be utilized to document the interior and exterior of the vehicle. Obvious damage will be noted in reporting. No damaged property will be released without being photographed. Processing will include the recovery of any items left by the suspect(s) in the vehicle that were not there when it was reported stolen. The vehicle may be impounded through the use of a rotation towing service or released directly to the owner. A Recovered Stolen Vehicle form will be completed prior to release of the vehicle. Any towed vehicles will be taken by the wrecker to their facility unless a Captain or above authorizes the vehicle being impounded to a City owned facility.
2. When a vehicle is reported stolen within the City limits and recovered outside the City limits, a Watertown Police Officer will be assigned to complete a supplemental report, notify the owner, and make arrangements to return the vehicle. Police personnel may respond to process the vehicle if the vehicle is recovered within Codington County unless staffing is a problem and a response will be delayed. In the event staffing is a problem or there will be a significant delay responding and if the vehicle must be moved right away, officers from the recovering agency may be asked to process the vehicle. A Recovered Stolen Vehicle form should be completed prior to release of the vehicle. If a response is not possible or practical, the jurisdiction in which it was recovered may tow the vehicle or release the vehicle to the owner. A Watertown Police Officer will be assigned to

document the circumstances of the recovery and will coordinate with the recovering law enforcement agency. The Officer will note where the vehicle is located or being taken and its general condition. The case report number of the recovering Department and the names of any of its personnel and the respective actions taken by them will be documented. Communications personnel will remove the recovered vehicle from SDLETS/NCIC and complete appropriate logs. The Police Officer will note the computer removal of the vehicle in the report narrative and attach teletype copies of removal verification.

ii. Watertown Police Department Authority and Response – (arrest made)

1. When an arrest is made for a stolen vehicle that was originally reported to Watertown Police Department personnel, and the vehicle is recovered by this Department, the arrest, vehicle processing, towing and/or release of the vehicle to the owner on the scene, will be accomplished by Watertown Police Department personnel. If WPD personnel originally reported the case, a supplemental report will be prepared. The processing and/or recovery of the vehicle are the responsibility of the arresting Police Officer and On-duty Shift Supervisor.
2. When an arrest is made for a stolen vehicle and the vehicle recovered was reported stolen by another law enforcement department, that particular department will be notified by the Communications Center via teletype, and be afforded a reasonable time frame to respond. The Watertown Police Department will handle the arrest, and if requested, will process the vehicle and arrange for the towing of the vehicle or release it to the owner. If requested by the other agency, the processing and/or recovery of the vehicle are the responsibility of the arresting Police Officer and On-duty Shift Supervisor.

b. Forms and Notifications

- i. When a vehicle is towed, impounded, and/or recovered within the City limits, the Police Officer will prepare an applicable Incident, Crash, Supplemental Report, or a Vehicle Impoundment and Inventory Report, and arrange for a rotation towing service to take charge of the vehicle. The Police Officer will also attempt to notify the owner of the recovery. Whenever the vehicle owner is not notified, or does not respond to the scene to take custody the vehicle, the Officer must note this in all reports made and the shift supervisor should be notified. Another officer will be assigned to continue attempts to notify the vehicle owner. If no contact is made with the vehicle owner after a reasonable amount of time, the Records Section will be asked to mail a letter to the owner by Certified Mail -Return Receipt requested and maintain documentation verifying this action was taken and who completed it.
- ii. The Vehicle Impoundment and Inventory Report and any Notification Form Letter will be attached as enclosures in the vehicle recovery case report.
- iii. The Officer will request the Communications Center to make the appropriate cancellations in State Radio/NCIC and cancellation of any BOLO teletypes associated with the recovery, towing, and/or impounding of any vehicle. Verification of these actions will be listed by the Police Officer in the narrative and appropriate copies of teletypes attached to the report. Communications Center staff will initiate a CAD entry (if not already done) or append to the existing CAD entry, a note that the state case and NCIC entry cancellation request was made.
- iv. When the original case was initiated by any other law enforcement Department, the Police Officer will request that the Communications Center notify that department by teletype or telephone of the recovery. The responsibility for cancellation is with that original reporting department. Documentation verifying this notice and acknowledgement will be noted in the CAD entry and in the narrative and verifying teletypes attached to the report.

c. Disposition of Property Found in Recovered Stolen Vehicle

- i. Whenever evidence is located within the recovered stolen vehicle, the Police Officer will handle this as he/she would any other evidence, by photographing, preparing a Property Receipt, completing the Property/Evidence Log and placing the evidence in designated secure evidence storage area. The recovery and storage of the evidence will be noted on the incident or supplemental report.
- ii. Vehicle License Tags
 1. Tags that are not registered to the recovered vehicle will be removed and placed in evidence.
 2. For tags that are reported stolen by another department, the Police Officer will prepare a separate case report for the recovery and make the appropriate notifications. That department is responsible for the cancellation of entry in SDLETS/NCIC.

3. Tags that are not registered to the recovered vehicle and are reported stolen by the WPD will be placed in evidence. The Police Officer will prepare a supplemental report to the case related to the stolen tag and make the appropriate notifications. The Communications Center will remove the tag entry from SDLETS/NCIC.
- d. Authority to Tow Vehicles - All vehicles towed will be entered into a Vehicle Tow Log maintained by the Communications Center. If the owner/driver of the vehicle is available, prior to towing, officers will ask the owner/driver of the vehicle if they prefer to have their vehicle left legally parked at the scene or released to a person of their choosing. Officers should insure that any person taking charge of a vehicle is sober. All vehicles will be towed to the wrecker's lot unless prior approval from a Captain or above is received to tow the vehicle to a City owned facility. Vehicles may be towed under the following circumstances:
- i. When any vehicle is left upon any bridge, causeway, or viaduct, where such vehicle constitutes an obstruction to traffic.
 - ii. When a vehicle upon a street is so disabled as to constitute an obstruction to traffic, or the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its safeguard, custody, and removal. The WPD officer will arrange for a tow service to remove the vehicle. The WPD officer will complete a Vehicle Impoundment and Inventory Report that includes the joint property inventory by the officer and/or tow truck driver. If the vehicle is released to the custody of the tow service, all personal property will remain in the vehicle and in the custody of the tow service. If the vehicle is towed to the WPD impound lot for storage you will need approval from a Captain or above. Items such as firearms, money, expensive jewelry, etc., will be placed in evidence for safekeeping. These items will be noted on a separate Property Receipt and logged in. This Department will safeguard personal property when the vehicle and the property remain in the possession or control of the WPD.
 - iii. When a vehicle is found being operated upon the streets and is not in proper or safe condition. This condition must present an immediate hazard to the safety of the driver, other motorists or pedestrians.
 - iv. When any vehicle is left unattended upon a street and is parked in such a manner as to constitute a definite hazard or obstruction to the normal movement of traffic.
 - v. When any vehicle is left unattended upon a street continuously for more than twenty-four (24) hours and may be presumed abandoned. Prior to towing, the Police Officer will conspicuously mark the tires of an abandoned vehicle. After 24 hours have passed, the Police Officer will complete and place an "Illegal Parking ticket" conspicuously on the vehicle noting the date, time, and location of the incident. After an additional 24 hours have passed since the vehicle was tagged, the Police Officer will make an attempt to contact the owner to remove the vehicle before actually towing. If the owner cannot be contacted, the Police Officer will have the vehicle removed by a rotation wrecker and taken to their facility. All actions will be documented on applicable departmental forms.
 - vi. When the driver of such vehicle is taken into custody by the police department and such vehicle would thereby be left unattended in an unsafe or illegally parked manner. All reasonable efforts to provide the vehicle driver with alternatives to impoundment have been unsuccessful or impractical due to time or staffing constraint.
 - vii. When such vehicle has been used in a criminal offense requiring the vehicle to be seized as evidence.
 - viii. Anytime a vehicle is to be searched with a search warrant and must be moved to facilitate the search warrant needs or requirements. Vehicles may also be towed any time they must be processed for evidentiary reasons and weather or other circumstances prohibit proper processing on scene.
 - ix. When removal is necessary in the interest of public safety because of fire, flood, storm, or other emergency reason.
 - x. When a vehicle is parked/abandoned on private property, the Police Officer will:
 1. Respond to the location and ascertain that the location is private property and make contact with the owner/agent of the property.
 2. Check to verify that the vehicle is not reported stolen or wanted.
 3. If there is a BOLO for the vehicle, then the Police Officer will notify the agency looking for the vehicle of its location and follow WPD policy.
 4. If the vehicle is not wanted by any law enforcement agency, the Police Officer should inform the owner/agent of the property that he/she may have the vehicle towed but they assume liability for the costs of removal, transportation, storage or damage caused by such removal.

- xi. Vehicles used to evade an officer that are located on public or private property not belonging to the registered owner of the vehicle, may also be impounded for further investigation.
- xii. When a vehicle is abandoned on public property and before towing, the Police Officer will verify the following:
 - 1. That the vehicle is not reported stolen or wanted.
 - 2. That there is no BOLO for the vehicle; or,
 - 3. That the vehicle is impeding snow removal efforts; or,
 - 4. That the vehicle is impeding street department maintenance and the owner cannot be located; or
 - 5. That the vehicle is in violation of Watertown City Ordinances.
- xiii. Towing vehicles for evidence:
 - 1. The On-duty Shift Supervisor will be notified and consulted prior to impoundment.
 - 2. When a vehicle is towed for evidentiary reasons or evidentiary processing reasons, the Police Officer will notify the On-duty Shift Supervisor, prepare the appropriate reports, and have vehicle removed to a secure facility for processing and storage unless directed otherwise by the On-duty Shift Supervisor. Officers should receive approval from a Captain or above before placement of a vehicle at a City owned facility. If owner cannot be contacted when vehicle is ready for release, the procedure set forth previously in Section 4, Subsection B, Subparagraph 1 above will be followed.
 - 3. Records Section personnel will be ultimately responsible for tracking vehicle impounds and ensuring owner notifications have been complied with. Records Section personnel will coordinate with impounding police officers/reviewing supervisors as necessary to properly dispose of impounded vehicles. Records Section personnel will audit Communications Center Tow Log entries for completeness and reconcile discrepancies.
- xiv. Towing vehicle for a custodial arrest for violations of SDCL chapter 32 and violations of Watertown City Ordinances.
 - 1. The Police Officer making an arrest and impounding the vehicle will prepare a Case Report and a Vehicle Impoundment and Inventory Report. All pertinent facts and circumstances will be included in the narrative portion of the Case Report.
 - 2. The decision to tow a traffic violator's vehicle will be based on the present circumstances including whether or not the vehicle if left, will pose a hazard to traffic or pedestrians and whether or not the vehicle is safe to drive.
 - 3. Whenever the driver arrested is not the owner of the vehicle, a decision to tow the vehicle will be made after reasonable effort has been made to notify the owner in person or by phone, thereby giving the owner the opportunity to retrieve the vehicle or leave it lawfully parked on location. All actions taken will be noted in the narrative portion of the report.
 - 4. The owner of the vehicle may be afforded the opportunity to leave the vehicle where it is, provided it can be safely and legally parked on location. Vehicles will not be left on any private property without the permission of the property owner.
 - 5. Vehicles that are leaking fluids, wrecked as a result of an accident, or are in any way a danger to the public will be removed from the scene. Vehicles with minor damage as a result of an accident may be left legally parked on scene if in the judgment of the officer that it will not be abandoned or present an unsightly appearance.
 - 6. If the vehicle is removed and stored by a towing service, that towing service will be responsible for storage of the vehicle, safekeeping of any personal property, and releasing the vehicle to the proper owner.
 - 7. The responsibility for the date and time of the release are the towing companies, based upon their hours of operations for such transactions. The Police Officer will not interfere with the normal business transaction of the towing company unless there is a need for the immediate release of the vehicle.
- xv. A hold on a towed and impounded vehicle may be placed after receiving the approval of the On-duty Shift Supervisor. Officers should receive approval from a Captain or above before placement of a hold vehicle at a City owned facility. Reason(s) for the hold will be entered on the towing portion of the Vehicle Impoundment and Inventory Report and in any applicable incident report. The hold release must be authorized by the impounding Officer or the Shift Supervisor that originally granted its approval unless exigent circumstances exist. A hold release will be documented on a supplemental narrative outlining the circumstances.
 - 1. Holds will only be granted for a reasonable amount of time to allow officers to conduct an investigation for crimes of hit and run, vehicular battery, vehicular homicide, or to

- finish processing the vehicle for evidence which cannot be reasonably accomplished at the scene.
2. Vehicles involved in fatal accidents may also be held for a reasonable amount of time for investigatory purposes only.
- xvi. Vehicles towed from the scene of a traffic crash at the request of the driver or owner of said vehicle, do not require the police officer to complete a Vehicle Impoundment and Inventory Report.
- e. Inventory Search of Vehicle
- i. Inventory Searches will not be used to circumvent the need to establish probable cause for conducting a search of a motor vehicle. Examination of the contents of a motor vehicle pursuant to a criminal investigation or with the intent of discovering evidence of a crime is a search requiring a warrant or exigent circumstances, not an administrative inventory.
 - ii. The purpose of an inventory search is to protect an owner's property while it is in Police custody, to insure against claims of lost, stolen, or vandalized property, and to protect the Police from danger.
 - iii. All vehicles impounded or seized by the Watertown Police Department must be inventoried. Inventory searches are conducted to preserve an accurate description and accounting of all items located within the vehicle. Whenever practical the property will remain with the vehicle. Any illegal weapons or contraband will be seized and placed into evidence. Items such as firearms, cash money, expensive jewelry, etc., will also be placed in evidence for safekeeping. These items will be noted on a Property Receipt and logged in. The reporting Officer will attach a copy of the property receipt to the Incident or Impoundment and Inventory Report. The list of property left in the vehicle or placed into safekeeping will be available for the Police Department or the vehicle's owner to confirm that all property within the vehicle is accounted for at the time of the impoundment or seizure and at the time of release. In the case of an arrest, a copy of the Property Receipt (if applicable) will be given to the arrestee. A copy of the Vehicle Impoundment and Inventory Report and Property Receipt (if applicable) will become an enclosure in the investigative report.
 - iv. Whenever possible, inventory searches will be conducted prior to the vehicle being removed from the scene. In the event that an inventory is not possible at the scene, the inventory search will be conducted immediately upon delivery of the vehicle to the impound location.
 - v. Inventory searches will be conducted as follows:
 1. A complete inspection of the vehicle to include the trunk and engine compartment will be initiated and all items located will be listed on a Watertown Police Department Vehicle Impoundment and Inventory Report.
 2. Officers will inspect a locked glove compartment and trunk during an inventory search if the keys are available.
 3. Inventory searches will include locked containers within the vehicle if they can be reasonably opened or unlocked. If it is necessary to force open a locked container, the shift supervisor will be consulted.
 4. Valuable property such as firearms, cash money, expensive jewelry, or other similar items will be placed in evidence for safekeeping.
 5. Whenever practical, items of minimal value should remain in the vehicle.
 6. Any contraband such as illegal firearms, weapons, and drugs or drug paraphernalia located during the inventory search will be seized and placed into evidence. The Police Officer seizing the items will complete property receipt(s) and make appropriate notation in the Incident Report and Vehicle Impoundment and Inventory Report.
 7. If at any time during an inventory search, an officer discovers the fruits of a crime, the inventory search should stop and an application for a search warrant will be made.
 8. Upon completion of an inventory search, the Police Officer will prepare the following documents:
 - a. Vehicle Impoundment and Inventory Report
 - b. Case Report
 - c. Complete Property/Evidence Log as appropriate
 - d. Arrest Reports and Narratives, if appropriate
 - e. Property Receipt as necessary
 9. A copy of the property receipt will be provided to the following:
 - a. Owner/operator of the vehicle.
 10. A copy of the Vehicle Impoundment and Inventory report will be provided to the following:

a. Communications Center.

11. Original copies and documents will be submitted to Records Section after review.

f. Search of Vehicles

- i. A Police Officer making a vehicle stop may request from the owner or operator of the vehicle, consent to search the vehicle. This consent may be obtained verbally or in writing using an appropriate form. Absent any articulable reason or reasonable suspicions, officers will not ask for consent to search. Officers conducting a consent search must allow any person who is present, and who possesses an equal right to the vehicle, the ability to revoke consent at any time. Consent searches should not be used as a pretext for merely looking to see what can be found.
- ii. A Police Officer may search a vehicle for contraband and/or fruits of a crime upon development of probable cause if an exigent circumstance exists. For the purposes of this section, an exigent circumstance does exist if the vehicle is capable of being moved. Absent any exigent circumstance, a search warrant shall be requested.
- iii. Following the lawful arrest of a subject from a vehicle or who has exited the vehicle just prior to arrest, officers may search the vehicle incident to arrest subject to the following limitations:
 1. The arrest must be lawful and must be a full-custodial arrest.
 2. The search must take place at the time of the arrest.
 3. A search incident to arrest may not take place once the arrestee is secured in handcuffs and secured in a law enforcement vehicle unless the officer has reasonable grounds to believe that the vehicle contains evidence of the particular crime for which the subject was arrested.
 4. The search incident to arrest is limited to the arrestee's immediate are of control (passenger compartment only) but is a thorough search.
 5. Unlocked containers within the vehicle may be searched irrespective of who the containers belong to.
 6. The person of other occupants may not be frisked or searched simply because another person in the vehicle has been arrested.
- iv. A vehicle search may not be conducted as a result of a traffic citation alone.
- v. However, no search may be made of the luggage compartment, incident to the same arrest, unless there is independent probable cause. If there is probable cause that the vehicle contains fruits or instrumentality of a crime or contraband, and there is an exigent circumstance, the entire vehicle, including the containers, may be searched. If probable cause is in doubt, the officer should consult with the On-duty Shift Supervisor. If necessary, the States Attorney may be consulted.
- vi. The motor vehicle is an exception to the warrant requirements under certain probable cause cases, but locked compartments and boxes may need a warrant to search and seize evidence.
- vii. A traffic stop absent any other reasonable suspicion is not a basis for a protective "frisk". However there are circumstances where Officers may conduct a protective "frisk" for weapons. To conduct a protective "frisk" for weapons, there must be some knowledge of fact(s) providing a reasonable suspicion of the presence of a weapon and/or dangerousness of the person to the officer's safety. Officers may conduct a weapons sweep if there is reasonable belief that the person being cited presents a danger to the officer. During the weapons sweep, any contraband found in plain view may be seized.

5. REFERENCED DOCUMENTS

- a. Incident/Crash/Vehicle/Property/Supplemental Reports
- b. Returned Property Forms
- c. Notification Form letter
- d. Property Receipt
- e. Chapter 32, SDCL
- f. Watertown Municipal Ordinances

JOANNA W. VITEK
Chief of Police
Watertown Police Department
Watertown, South Dakota