

# PROCEDURE – Vehicle Examination and Retention

Number: H 0702

Date Published: 18 July 2019

Version 2 – July 2019

## 1.0 Summary of Changes

This procedure has been updated within section 3.4.4 Retention for Forfeiture to include information relating to PACE and give further information regarding storage time of vehicles.

## 2.0 What this Procedure is about

This procedure explains how Essex Police undertakes the examination and retention of vehicles.

The examination and retention of any vehicle by police will be in line with appropriate legislation and the terms of the contract with Automobile Association Developments Limited (AADL) to deliver the Vehicle Recovery Scheme from here on referred to as 'the Scheme.'

The use of the ELVIS system is central to management of the scheme and is accessible by Police, AADL and their contractors.

***Compliance with this procedure and its governing policy is mandatory.***

## 3.0 Detail the Procedure

The Vehicle Recovery Liaison Officer (VRLO) is responsible for overseeing AADL in managing the Scheme.

### 3.1 Storage Locations

Following the recovery or seizure of a vehicle by a Vehicle Recovery Operator (VRO) it should be conveyed to their premises for appropriate safe storage until the vehicle can be released or disposed of.

No vehicle will be stored on Essex Police premises except where directed by a Crime Scene Manager to a garage maintained by Scientific Support.

Whilst a vehicle is retained only the Investigating Officer or VRLO are permitted to disclose the storage location. Where this is done justification must be recorded on ELVIS, Athena or CRASH record.

### 3.2 Investigation Records

Vehicles which require examination or retention for any reason must form part of a properly recorded investigation. With the exception of non-collision related minor traffic offences the vehicle concerned must have a record on Athena and/ or CRASH which is linked to an active investigation.

# PROCEDURE – Vehicle Examination and Retention

Number: H 0702

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## 3.3 Examination of a Vehicle

Vehicles are not routinely examined and so it is important that this is indicated on form VR1 at the point of recovery or seizure.

All requests with the exception of those under 3.2.5 Forensic Collision Examination require the submission of the Examination of Vehicle form accessed via Form VR4 – Request for Vehicle Examination by the investigating officer on the day the vehicle was recovered or seized. Where the investigating officer is not on duty submission must occur within four days of recovery or seizure.

**Once all requested examinations have been completed or failed to take place within seven days the vehicle is released** unless the vehicle is on retention as per 3.4 Retention of a Vehicle. Where the investigation is in relation to a Serious Crime or Serious Collision the time allowed is doubled.

### 3.3.1 Forensic Examination

The forensic examination of a vehicle is conducted by a Crime Scene Investigator (CSI). Examinations and submissions which include paint transfer, plastic fibre fusion and DNA swabs of driver's controls are expensive. A vehicle should only be recovered in more serious cases and where possible advice of a CSI sought.

It is no longer considered reasonable to request the examination of a vehicle without providing sufficient information on the case strategy and considerations by the investigating officer. The aspects of the examination necessary to support a case being proved/ disproved, such as; placing a person in the vehicle, whether or not a suspect broke the window, whether weapons within the vehicle are linked to a crime, etc.

### 3.3.2 Mechanical Examination

The mechanical examination of a vehicle is conducted by a Roads Policing Vehicle Examiner (RPVE). Examinations can only be undertaken once any requested forensic examination has been completed.

### 3.3.3 Driver Hours Examination

The examination of a vehicle in relation to driver hours is conducted by a Commercial Vehicle Investigator (CVI). Examinations can only be undertaken once any requested forensic examination has been completed.

# PROCEDURE – Vehicle Examination and Retention

Number: H 0702

Date Published: 18 July 2019

Version 2 – July 2019

## 3.3.4 Vehicle Identification Examination

The examination of a vehicle to ascertain its true identity is conducted by a Stolen Vehicle Examiner (SVE). Where possible these examinations are kept to a minimum by Vehicle Recovery Administrators assessing the information provided by the seizing officer and VRO to identify the vehicle. Examinations can only be undertaken once any requested forensic examination has been completed.

## 3.3.5 Forensic Collision Examination

The forensic collision examination of a vehicle is conducted by a Forensic Collision Investigator (FCI).

## 3.4 Retention of a Vehicle

Vehicles are not automatically retained and so it is important that this indicated on form VR1 at the point of recovery or seizure.

Vehicles will only be retained for reasons other than examination where the investigation relates to a **Serious Crime** or **Serious Collision** as defined in H 0700 Policy – Vehicle Recovery. Retention must be in line with legislation and proportionate when considering not only the offence investigated but also the nature of the item retained.

It is essential that a proper audit is maintained on ELVIS to justify the ongoing retention of a vehicle. This process is managed automatically by ELVIS and investigating officers must respond to requests from the system. Requests are generated when the initial request is made and then monthly until the release of the vehicle.

Requests from the system require response within 7 days if no response is forthcoming after a reminder and a further 7 days pass the vehicle will be released on the information available to the Vehicle Recovery Team.

### 3.4.1 Retention for Investigation or Evidence

Vehicles which are required for investigation in connection with an offence or as evidence at a trial for an offence may be retained under s22 Police and Criminal Evidence Act 1984.

This legislation does not allow in normal circumstances vehicles to be retained where:

- A photograph would be sufficient;
- It is solely being retained in lieu of identifying a driver or owner;
- It is solely to deprive a suspected criminal the use of their vehicle.

# PROCEDURE – Vehicle Examination and Retention

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## **3.4.2 Retention for Proceeds of Crime**

Vehicles which are required in connection with obtaining a confiscation order may be detained under Proceeds of Crime Act 2002.

Advice must be sought at the earliest opportunity from the Financial Investigation Unit, Serious Crime Directorate. Vehicle Recovery must receive an update within 28 days of seizure providing the details of the Financial Investigator and their advice as to whether the vehicle should be restored to the owner or stored by arrangements made through the Financial Investigation Unit. VRO's do not provide a long term storage solution under these circumstances due to the deterioration of an asset.

This legislation does not allow vehicles which are deemed exempt property to be detained. This will include vehicles that are necessary:

- To the defendant for use personally in the defendant's employment, business or vocation;
- For satisfying the basic domestic needs of the defendant and the defendant's family.

Confiscations orders are not granted where it cannot be shown the vehicle was owned by the subject at the time of the offence or where there is outstanding finance on the vehicle.

Where the investigating officer is unable to demonstrate following this process and no other lawful reason can be provided the vehicle must be released to the owner.

## **3.4.3 Other Statutory Provision or Court Order**

Vehicles retained under other legislation where it can be demonstrated that to do so is proportionate and necessary in the given circumstances or is subject to a court order.

Failure by an officer to keep this information up to date will result in the disposal of the vehicle based on the information currently held on ELVIS.

## **3.4.4 Retention for Forfeiture**

Vehicles which are required to be retained to allow application for forfeiture may only be held if they are lawfully retained under s22 Police and Criminal Evidence Act 1984 as s143 Powers of Criminal Courts (Sentencing) Act 2000 makes no specific provision for retention.

Vehicle Recovery must receive an update within 28 days of seizure providing the details of the Financial Investigator and their advice as to whether the vehicle should be restored to the owner or stored by arrangements made through the Financial Investigation Unit. VRO's do not provide a long term storage solution under these circumstances due to the deterioration of an asset.

# PROCEDURE – Vehicle Examination and Retention

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## **3.5 Access to Locked Vehicles with No Keys**

It is not possible to arrange access to be gained via a locksmith on every occasion.

### **3.5.1 Vehicles relating to Serious Crime or Serious Collision**

Where the investigation relates Serious Crime or Serious Collision as defined in H 0700 Policy – Vehicle Recovery and access is required for examination the VRLO will authorise payment to access the vehicle.

### **3.5.2 Vehicles NOT relating to Serious Crime or Serious Collision**

Where the investigation DOES NOT relate to a Serious Crime or Serious Collision as defined in H 0700 Policy – Vehicle Recovery and access is required for examination it is the responsibility of the Investigating Officer to source keys. The following options should be considered in the order and actioned within 4 days of the seizure of the vehicle:

1. Decide that an examination can no longer be justified and the vehicle should be released to the owner;
2. Contact the owner of the vehicle and arrange for the keys to be taken to the VRO's premises;
3. Contact the insurance company and ask for them to confirm in writing that they will pay for access to be gained (this will require payment upon collection of the vehicle);
4. Seek the authority of a Chief Inspector or above to confirm that options 1-3 are not appropriate as exceptional circumstances exist and to authorise payment to access the vehicle.

## **3.6 Property**

The VRO is responsible for the safekeeping of any property within the vehicle. Once any requested examination is completed the contents are removed and stored separately in line with arrangements directed by AADL. This process is recorded on ELVIS.

Where property is removed by officers or staff for the investigation that property should be booked into the Property Management System. Both ELVIS and PMS should be cross referenced with each other's reference numbers.

## **4.0 Equality Impact Assessment**

This procedure has been assessed with regard to an Equality Impact Assessment. As a result of this assessment it has been graded as having a low potential impact as the proposals in this procedure would have no potential or actual differential impact on grounds of age, sex, disability, race, religion or belief, marriage and civil partnership, sexual orientation, gender reassignment and pregnancy and maternity.

# PROCEDURE – Vehicle Examination and Retention

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## **5.0 Risk Assessment**

This document provides advice and guidance concerning the recovery, seizure, retention and disposal of motor vehicles. Police officers and staff will take no part in the activity of recovery or seizure of a motor vehicle. All actions will be undertaken by contracted companies who have undertaken their own assessment of the risk associated with such activity.

Officers and staff seeking guidance concerning the risks associated with the activity concerning the recovery or seizure of a motor vehicle are advised to consult the procedure dealing with that activity or the Health and Safety website.

## **6.0 Consultation**

The following have been consulted during the formulation of this document:

- Unison
- Police Federation
- Essex Diversity and Inclusion Manager
- Health & Safety
- Strategic Change Team
- PSD Superintendent
- Policy/Risk
- Superintendents Association
- Scientific Support, SCD
- Stolen Vehicle Intel Unit, SCD
- Financial Investigation Unit, SCD
- Corporate Finance

## **7.0 Monitoring and Review**

This procedure will be continuously monitored throughout its lifespan by the Vehicle Recovery Liaison Officer, through regular contact with police personnel and vehicle recovery operators. This will ensure it remains accurate and compliant with both legislation and national or local drivers.

A review will be carried out every 2 years by the Vehicle Recovery Liaison Officer to ensure the procedure remains accurate and fit for purpose.

## **8.0 Governing Force policy. Related Force policies or related procedures**

- H 0100 Policy – Roads Policing
- H 0700 Policy – Vehicle Recovery
- H 0602 Procedure – Road Traffic Collisions (Investigations)
- B 0600 Policy – Investigation of Crime

# PROCEDURE – Vehicle Examination and Retention

**Number: H 0702**

**Date Published: 18 July 2019**

Version 2 – July 2019

- S 1150 Policy – Proceeds of Crime
- S 2400 Policy – Crime Scene Management

## **8.1 Data Security**

Essex Police have measures in place to protect the security of your data in accordance with our Information Management Policy – W 1000 Policy – Information Management.

## **8.2 Retention & Disposal of Records**

Essex Police will hold data in accordance with our Records Review, Retention & Disposal Policy – W 1012 Procedure/SOP - Records Review, Retention and Disposal.

We will only hold data for as long as necessary for the purposes for which we collected. Victims/public should be reminded that Essex Police take the protection of personal data seriously as described in the privacy notice <https://www.essex.police.uk/hyg/fpnessex/privacy-notice/>.

## **9.0 Other source documents, e.g. legislation, Authorised Professional Practice (APP), Force forms, partnership agreements (if applicable)**

- Form VR4 – Request for Vehicle Examination
- NPCC Vehicle Recovery Best Practice Guide 2016
- Police and Criminal Evidence Act 1984
- Proceeds of Crime Act 2002
- The Powers of Criminal Courts (Sentencing) Act 2000