

Our Ref: IM-FOI-2020-1441
Date: 16 September 2020



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

Please advise your policy with regard to stolen vehicles insofar as detaining seizure and release is concerned. I'm seeking your constabulary policy that relates to your engagement with stolen vehicles in particular those found in the possession of innocent purchasers and decisions to seize, your responsibilities with regard to examination to identify suspects and true identity where the vehicle has a false registration mark. Additionally the factors giving rise to a decision to either leave the vehicle with the innocent purchaser or another and with regard to the latter the policy relating to handing the vehicle to another constabulary or a party deemed to have better title.

With regard to the type of decision I'm seeking your policy the deals with your legislation; the rights to seize and to make a decision with regard to ownership and / or title.

Some of the requested information is considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Police Scotland to provide you with a notice which: (a) states that it holds the information, (b) states that it is claiming an exemption, (c) specifies the exemption in question and (d) states, if that would not be otherwise apparent, why the exemption applies. Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided.

A search of our recording systems has identified 2 relevant documents, these being the Seizure of Vehicles Standard Operating Procedure and the Stolen Vehicles Standard Operating Procedure.

With regards to the Seizure of Vehicles Standard Operating Procedure the following exemption is applicable:

Section 25(1) – Information otherwise accessible

This Standard Operating Procedure is published on Police Scotland's web site and can be accessed using the following link:

<https://www.scotland.police.uk/access-to-information/policies-and-procedures/standard-operating-procedures/standard-operating-procedures-p-s/>

Accordingly I can advise that this information is held, however, as it is readily available at public source this exemption is applicable.

This is an absolute exemption and does not require application of the public interest test.

In relation to the Stolen Vehicles SOP, this is not published externally. **Section 1, 7, 8.1/8.2, 10 and 17** are those that are applicable to your request and I have provided below an extract of the relevant sections:

1. PURPOSE

- 1.1 This Standard Operating Procedure (SOP) provides police officers and police staff instruction and guidance that should facilitate the timeous recovery of stolen property and ensure that potential evidence is secured at the earliest opportunity. If the procedures outlined are adhered to then the criminal use of motor vehicles will be disrupted.
- 1.2 Vehicles are used as a crime enabler in nearly all crime types and the money released assists in facilitating these crimes. It is widely recognised that vehicles are stolen primarily for three reasons:
 - For onward sale (as rung or cloned vehicles) resulting in the release of the monetary value of the vehicle.
 - Short-term personal transport and use in other criminality (Cash in Transit Robberies, Trafficking, Smuggling, Acts of Terrorism, Drugs etc.)
 - Release of its monetary value from the sale of its component parts and disposal of the shell as scrap metal.
- 1.3 The Police Service of Scotland (PSoS) will reduce vehicle theft and prevent vehicles being used in other criminal activity through targeting criminals and Organised Crime Groups (OCGs) involved in the theft, “ringing” and dismantling of vehicles and other associated crimes,.
- 1.4 Many of the stolen vehicles that officers will encounter will have had their identity changed; bear false number plates, appear abandoned or even found burnt out at the roadside. In order to ensure that trace evidence is not inadvertently destroyed, there is a requirement that officers attending treat such vehicles as stolen, until it is proven otherwise.
- 1.5 By securing such vehicles, PSoS will recover stolen property and potential evidence at the earliest opportunity allowing the detection and disruption of criminals and OCGs actively involved in vehicle crime throughout UK and Europe

7. IDENTIFICATION AND EXAMINATION OF A SUSPECTED STOLEN VEHICLE

7.1 Where a vehicle in possession of a person or abandoned is recovered as suspect stolen, it should be remembered that it is effectively a crime scene until confirmed otherwise and due care taken to prevent loss or compromise of evidence.

7.2 Section 60 Civic Government (Scotland) Act 1982 provides that if a constable has reasonable grounds to suspect that a person is in possession of any stolen property the constable may without warrant:

- Search that person or anything in his possession, and detain him for as long as necessary for the purpose of the search;
- Enter and search any vehicle or vessel in which the constable suspects that that thing may be found, and for that purpose require the person in control of the vehicle or vessel to stop it and keep it stopped;
- Enter and search any premises occupied by a second hand dealer or a metal dealer for the purposes of his business;
- Seize and detain anything found in the course of any such search which appears to the constable to have been stolen or to be the evidence of the crime of theft, and may, in doing so use reasonable force.

8. RECOVERED STOLEN VEHICLE – OFFICERS RESPONSIBILITIES

8.1 Where officers make the decision to seize a suspect stolen vehicle from a member of the public following a roadside check or routine stop, consideration must be given to the consequences of the seizure and the impact on the owners/drivers and passengers. In particular drivers / passengers with physical or mobility impairments may require additional police assistance following seizure of the vehicle.

8.2 As such all officers attending a recovered stolen or abandoned vehicle should be familiar with the instructions contained within the [Seizure of Vehicles SOP](#).

10. REMOVAL PROCESS - STOLEN VEHICLES

10.1 Stolen vehicles may be removed by police using powers conferred under [Regulation 4 of the Removal and Disposal of Vehicle Regulations 1986](#).

10.2 This is carried out by a Vehicle Recovery Operator (VRO) through Vehicle Recovery Scheme (VRS).

10.3 In the first instance where a stolen vehicle is recovered and **is suitable for release** the owner **must** be given an opportunity to arrange for its collection as they may not wish to claim on their insurance. Details of all attempts to contact the owner should be recorded on command and control and the officer's notebook.

10.4 Cognisance of the requirement for SOCE should be taken and suitable arrangements made to have SOCE carried out at the location the vehicle is recovered to. Guidance should be given to the owner re preservation of evidence in this case.

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- 10.5 If the vehicle is to be released to the owner, they are to be informed that the vehicles condition cannot be verified and recommendation given against driving the vehicle until inspected by a suitably qualified mechanic etc. Details of this should be noted in the officer's notebook and signed by the owner or other authorised person removing the vehicle.
- 10.6 If an obstruction or danger is present, and / or the owner cannot be contacted, or make the necessary arrangements within a suitable time frame (30 minutes) then the officer in attendance will arrange to have the vehicle removed to a Police Recovery Yard. The owner if spoken to at the material time should be informed that if they choose not to involve their insurance company that the removal will be at their expense. This should be recorded on the Command and Control incident and in a police notebook and signed by the owner, if present.
- 10.7 Where the owner does not exercise their right to have the vehicle recovered at their own expense the officers at scene should ensure that the ACR is advised that a **statutory removal** under VRS is required quoting STOLEN VEHICLE as the reason for removal. The Audit Trail Document (ATD) should be marked accordingly.
- 10.8 It should be noted that where the vehicle owner cannot get the stolen vehicle removed and Police wish to carry out SOCE, it will be removed to a police recovery yard. The reason for removal remains as a STATUTORY REMOVAL – STOLEN VEHICLE and the owner / insurance company is still liable for the Statutory Fees. The removal under these circumstances is **not** a Police request.
- 10.9 Unless specific requirements to retain the vehicle are indicated to CVRS and marked on the ATD, the vehicle will be released and returned to the owner / insurance company by the VRO after any SOCE / mechanical / SVE examination has been carried out.
- 10.10 Where a vehicle is removed due to involvement in serious crime and is likely to be retained as a Police Production for Court the ATD is to be marked as POLICE REASON – PRODUCTION. On this occasion the Police may be liable for removal costs if the vehicle involved is not a stolen vehicle (see below).
- 10.12 If the vehicle is a production and being retained, the production reference number must be quoted.
- 10.13 Where a vehicle is recovered using VRS and not authorised for immediate release, i.e. Production for court, VRS administration must be advised of the reason within 28 days of removal to confirm whether the vehicle is to be retained or released after this period. If VRS Administration does not receive such intimation the vehicle may be released without further notice.
- 10.14 If police remove a vehicle for any other purpose e.g. Mechanical, SVE, SOCE exam through suspected criminal involvement and it is found to be genuine, it is to be returned to the owner. The police will be responsible for the costs.

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- 10.15 Vehicles recovered burnt out should **not** be removed for police purposes **unless** scenes of crime examination is deemed necessary, **or** it is believed to be a stolen vehicle and that it may be disposed of prior to identification.
- 10.16 Where officers are able to identify a burnt out vehicle as stolen and there is no obvious requirement for SOCE or SVE examination they should make use of their local facilities to have the vehicle removed (i.e. Local Council) to prevent the subsequent theft of the shell and to reduce likelihood of members of the public being injured because of its location.

17. VEHICLE RELEASE / DISPUTED OWNERSHIP

- 17.1 Members of the public may be enticed to purchase rung or cloned vehicles through fraudulent schemes where the vehicles will have been advertised in trade magazines etc. and sold with V5 Registration documents and true keys for the vehicle making the sale appear genuine. These members of the public are referred to as innocent purchasers. They will have been defrauded out of their money.
- 17.2 Under current case law in England (R W Jones v National Employees General Insurance Association, Court of Appeal 1987), if a stolen vehicle is recovered, the vehicle will always be returned to the genuine keeper (or the Insurance Company who paid out on the theft claim).
- 17.3 However, this leaves the innocent purchaser with a huge financial loss and little chance, because of the circumstances of the purchase, of making any sort of financial recovery.
- 17.3 Following a stated case against the Chief Constable of former Strathclyde Police, the automatic return of a recovered stolen vehicle **should not be undertaken**; as the innocent purchaser may indicate an interest or claim to the vehicle once the vehicle has been seized and identified as being stolen.
- 17.4 If the person the vehicle is recovered from is found to be an innocent purchaser, then a subject sheet is to be raised with legal services to obtain guidance as to who the vehicle shall be returned to when released.
- 17.5 The following procedure has been indicated by legal services:
- Subject sheet is to be prepared and submitted to CVRS. This will detail the circumstances surrounding the vehicles recovery and purchase by the innocent purchaser etc.
 - Subject sheet will be reviewed by the Scheme Manager.
 - Scheme Manager reviews circumstances and prepares report for submission to Legal Services
 - Legal Services will examine report and make decision
 - Legal Services will write to both parties giving opportunity to take action
 - If challenged about decision Legal Services will put vehicle to multiple poidning.

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17.6 The vehicle will be placed onto retention until the process is completed and officers should refer back to section 7.10.

Should you require any further assistance please contact Information Management - Glasgow at – foi@scotland.pnn.police.uk – quoting the reference number given.

If you are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.pnn.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.