

**MARYLAND POLICE AND CORRECTIONAL TRAINING COMMISSIONS
LESSON PLAN**

COURSE TITLE: 2019 Stops, Searches, and Arrests Training

LESSON TITLE: Searches, Part 2: Consent, Exigent, Vehicle, Inventory

PREPARED BY: BPD Education & Training Staff

DATE: June 27, 2020

TIME FRAME	PARAMETERS
Hours: 1 Day/Time: Day 2 of 2	Audience: Sworn officers of all ranks Number: 36 Space: Classroom
PERFORMANCE OBJECTIVES	ASSESSMENT TECHNIQUE
<ol style="list-style-type: none"> 1. Students will be able to identify BPD policy requirements for the following searches to the satisfaction of the instructor: <ol style="list-style-type: none"> a. Consent b. Exigent Circumstances c. PC Search of a Vehicle d. Community Caretaking inventory search 2. Students will be able to analyze the role of police legitimacy for the following searches to the satisfaction of the instructor: <ol style="list-style-type: none"> a. Consent b. Exigent Circumstances c. PC Search of a Vehicle d. Community Caretaking inventory search 3. Students will be able to apply policy requirements to scenarios involving the following to the satisfaction of the 	<ol style="list-style-type: none"> 1. Facilitated discussion

instructor: a. Consent b. Exigent Circumstances c. PC Search of a Vehicle d. Community Caretaking inventory search	
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MPCTC Lesson Plan	Page 2
STUDENT MATERIALS NEEDED	
INSTRUCTOR EQUIPMENT/SUPPLIED NEEDED Lecture: 1 Computer w/PowerPoint and internet access (for group/individual feedback questions). (Set the computer up in dual-screen mode so that the interactive portion can be brought over to the projected screen) 1 Projector 1 Projector screen (mirrored screens required for larger audience size)	
STUDENT HANDOUTS	

METHODS/TECHNIQUES

Lesson will be presented by lecture and discussion with live demonstrations.
This will be followed by scenario-based practical application of legal concepts discussed.

REFERENCES

The following books and other materials are used as a basis for this lesson plan.
The instructor should be familiar with the material in these reference documents
to effectively teach this module.

Draft Baltimore Police Department policies:

Policy 906, Traffic Citations

Policy 1108, DUI/DWI Arrest Procedures

Policy 1106, Warrantless Arrest Procedures and Probable Cause Standard

Policy 1104, Arrest Warrants

Policy 1013, Strip Searches & Body Cavity Searches

Policy 1114, Persons in Police Custody

Policy 1002, Securing and Interviewing Witnesses

Policy 1105, Custodial Interrogations

Policy 1007, Search and Seizure Warrants

Policy 1109, Warrantless Searches

Policy 1505, Foot Pursuits

Policy 317, Fair & Impartial Policing

Policy 720, Interactions with LGBTQ Individuals

Maryland constitutional and procedural law related to seizures

Federal constitutional and procedural law related to seizures

Partial list of relevant cases:

[Katz v. United States](#), 389 U. S. 347, 357 (1967) (expectation of privacy)

[United States v. Jones](#) 565 U.S. 400 (2012) (trespass theory of 4th Amendment search)

Partial list of relevant cases:

Search incident to Arrest

[Arizona v. Gant](#) (2009) (vehicle, limits on Chimel)

Chimel v. California, 395 U. S. 752 (1969)(generally)

New York v. Belton, 453 U. S. 454 (1981)(vehicle SIA)

Frisk

[Arizona v. Johnson](#), (2009) (passenger, gangs)
[Sibron v. New York](#), 392 U.S 40, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968)
[Graham v. State](#), 146 Md. App. 327, 358-59, 807 A.2d 75 (2002)
[McDowell v. State](#), 407 Md. 327, 341, 965 A.2d 877 (2009) (extent)
[State v. Smith](#), 345 Md. 460, 465, 693 A.2d 749 (1997)(scope)
[Ames v. State](#), Court of Special Appeals (2017)(Moylan overview)
[State v. Sizer](#) (2016)(frisk of bag)
[Sellman v. State](#) (list of factors)

Frisk of Vehicle

[Michigan v. Long](#), 463 U. S. 1032 (1983)
[McDowell v. State](#) (2009) Frisk of container in vehicle
[Cross v. State](#) CoSA (2005) locked glove compartment

Probable Cause Search of Vehicle

[United States v. Ross](#), 456 U. S. 798, 820–821 (1982)
[Wyoming v. Houghton](#), 526 U.S. 295, 301 (1999)

Inventory Search

[Colorado v. Bertine](#), 479 U. S. 367, 372 (1987).
[Florida v. Wells](#), 495 U. S. 1, 4 (1990)


GENERAL COMMENTS


In preparing to teach this material, the instructor should take into consideration the following comments or suggestions.

This lesson plan is intended for use with experienced instructors who have significant teaching experience, moderate technology experience, and exceptional knowledge of 4th Amendment law.

LESSON PLAN

TITLE: Searches Part 2

PRESENTATION GUIDE	TRAINER NOTES
<p>Introduction</p> <p>Before the break we looked at some general concepts related to how to conduct a search in a way that helps build and maintain public trust and therefore police legitimacy.</p> <p>ASK: What were some of the concepts we discussed that reinforce police trust and legitimacy for all types of searches?</p> <p>ASK: What was one thing we learned about weapons pat-downs?</p>	<p>Slide 1</p>  <p>Expected answers could include:</p> <ul style="list-style-type: none">• Communication -- Explain the reason for the search (where it does not pose a safety risk or endanger the investigation).• Courtesy -- Conduct searches courteously and in a way that promotes the dignity of the person searched.• Use professional language and conduct.• Do not search or seize private recordings without a warrant, consent, or exigency.• Minimize Disruption -- Do not cause undue damage, disruption, or harm.• Return property to pre-search condition to the extent possible.• Document all searches.• Use BWC.• Requires RAS of crime +• RAS the suspect is armed +• RAS the suspect is dangerous.• A pat-down is NOT automatic following a stop.

<p>ASK: What was one thing we learned about searches incident to arrest?</p> <p>Show case study</p> <ul style="list-style-type: none"> • Man stopped for seatbelt • Made motion toward back of car as he was being stopped • Officer notes odor of marijuana • Has man step out, pats him down • Man doesn't want to give consent, gets talked into it • Gun is found <p>ASK: Does this look like a legal stop?</p> <p>ASK: Does the patdown appear to be legal?</p> <p>ASK: Does this appear to be a "good" consent search?</p>	<p>Limited to:</p> <ul style="list-style-type: none"> • Check for weapons, evidence, contraband • Search of all pockets • Search of any articles of property found on the person • Manipulation of clothing that does not permit the visual inspection of the person's groin/genital area, buttocks, female breasts, or undergarments (with the exception of the waistband) <p>Slide 2:</p>  <p>It is a pretext stop, but that's legal because there was PC that he was committing a traffic violation (failure to wear seatbelt)</p> <p>No. Even if there was RAS of criminal activity (odor of marijuana), there was no RAS of armed or dangerous.</p> <p>Not likely to be consensual. Consider the circumstances. Would a reasonable person feel free to say no? Was the person free to leave? While consent CAN be given by</p>
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<p>ASK: Was the car search legal?</p>	<p>someone in custody, it's HARDER to prove.</p> <p>Policy 1109: "Members shall not use a person's refusal to give consent to Search as a factor in establishing reasonable suspicion or Probable Cause. 3. Members shall not tell a person that refusal to provide consent may lead to adverse consequences, such as arrest or warrantless seizure of their property."</p> <p>There was PC to search the vehicle based on the odor of marijuana (though not arrest the occupants)</p>				
<p>Consent</p> <p>GROUP EXERCISE: Prior to each section, have groups work together to write what they know about that type of search. Groups will teach-out to introduce section.</p> <p>Have Group 3 teach out the Consent portion.</p> <p>As they do so, ask guiding questions to probe the contours of the below lesson.</p> <p>Advance to slide once the group has covered the topic and ask instructor questions below to the class and/or group.</p> <p>A search where someone with apparent authority has given you permission to search a person/place/thing.</p>	<p>Slide 3</p> <div data-bbox="971 926 1435 1184"> <p>When can you conduct a search?</p> <table border="1"> <tr> <td>Weapons Pat Down</td> <td>Arrest</td> </tr> <tr> <td>PC Vehicle</td> <td>Inventory</td> </tr> </table> <p>Requires either:</p> <ul style="list-style-type: none"> • A search warrant (preferred) <p>OR a recognized exception to the warrant requirement such as:</p> <ul style="list-style-type: none"> • Weapons Pat Down • Search Incident to Arrest • Consent • Exigent Circumstances • PC Search of a Vehicle • Community Caretaking (inventory searches, etc) </div> <p>Slide 4</p>	Weapons Pat Down	Arrest	PC Vehicle	Inventory
Weapons Pat Down	Arrest				
PC Vehicle	Inventory				

It's limited in scope to what a reasonable person would think that they were giving you permission to do.

ASK: What is a consent search?

ASK: Who could give you consent to search a hotel room?

ASK: Can a consent search go "too far"? How?

ASK: How can we make sure we're conducting consent searches in a way that improves public trust and police legitimacy?

One of the ways that the department intends on improving public trust and support is to make sure that

What is a consent search?

How can we make sure we're conducting consent searches in a way that improves police legitimacy?

Consent



Possible answers:

A search done where someone has voluntarily given you permission to search a place over which they have authority

The hotel guest. Not the hotel manager/etc unless the guest has significantly overstayed checkout or otherwise abandoned his REP/claim to the room

- Where it's not really voluntary
- Where police exceed the scope of the search
- Where the person doesn't have authority to give consent

Refer to "Fair" and "Impartial" posters

Answers to look for:

- Ensure they are voluntary
- Do not overuse them
- Incorporate voice, respect, impartiality, trustworthiness

Slide 5

we're only asking for consent to search when there's RAS that a crime has been committed.

To request to conduct a consent Search of a person or property for contraband or other evidence of a crime, members must have (1) RAS that a crime has been committed, and (2) RAS that the person is involved in the crime or possesses evidence of the crime or the place to be searched contains evidence of the crime

There should also be a reason related to the crime that is leading you to ask this particular individual for permission to search (are they at the scene of the crime? Do they have evidence of the crime?)

ASK: If you're not investigating a crime, what's the point in asking everyone you meet for consent to search?

ASK: What is the impact on the community when officers ask for consent to search where there's been no crime committed?

ASK: Does this mean that I can't ask for consent to go in and check out a gas/water leak?

- If two or more equals disagree, you can't search.

When can you ASK for consent?



BEFORE requesting consent to search for evidence, you need:

- RAS that a crime has **ALREADY** been committed
- RAS that either:
 - the person is **involved** in the crime
 - OR they have evidence on them
 - OR evidence is in the place to be searched

Possible answers:

No point, just fishing

- Makes people feel victimized.
- It seems unfair.
- People think police are biased in deciding who to ask for consent to search
- Could impact perception of trustworthiness of officer's motives ("why is she asking ME to be searched? Does she think I'm a criminal?")

This only applies to where you're searching for evidence/contraband. It doesn't impact our community caretaking function.

Slide 6

- If a parent gives permission to search a youth's room or belongings, you cannot search if the youth refuses.

In order for a consent search to be a valid exception to the search warrant requirement of the 4th Amendment, it must be given by someone with apparent actual authority to do so.

It is the officer's responsibility to get consent to search from a person who has actual (or at least apparent) authority to give it.

The officer must know what factors determine a person's authority to give consent.

The officer must ask the right questions to make sure he/she is asking a person who has the authority to give consent.

If the officer turns out to be mistaken about the person's authority to give consent, the court will look at whether the officer asked all the questions he/she reasonably should have asked and then interpreted the answers correctly according to his/her training

ASK: What kind of information does the officer need to know to determine if someone has the authority to give consent? What questions should she be asking?

Yes + No = No Consent Search



- If equals disagree over giving you consent, you can't search
- Special case: If a parent gives consent to search a youth's room or belongings, you can NOT search if the youth refuses

Answers might include:

- Who is the owner/renter of the premises/item? Who lives there?
- How old is the person you are asking?
- Why is the person in possession of the item/premises right now? Are there limits on what she can do with it/in it?
- Who has the key? Who has access? With or without prior permission?
- Who pays the bill?
- Who has the right to exclude others?

ASK: What is the reason behind respecting a youth's demand not to search their belongings, even if a parent gives permission?

- Who keeps their personal possessions there? Who stays there temporarily?

Voice – it shows that you have heard them

Trustworthiness – it shows that they're not “out to get you”

Dignity – it respects their autonomy

additional practical explanations facilitators can try to elicit from the learners, however. First, if the parent and child disagree about consent to search, that is a family matter; BPD officers should not provide the muscle to resolve that dispute (particularly since the parent presumably is free to enter the child's room without BPD assistance and retrieve the offending item). Second, it is the child (not the parent) who will suffer the legal consequences if an illegal item is found, so it makes sense that officers respect the child's decision whether he or she will waive important rights and consent to a search.

- A consent search must be voluntary – no threats, no coercion, no adverse consequences for refusal
- The person can limit the scope however they wish.

Slide 7

- The person may stop the Search at any point.

If someone said, “You can look in the car, but I don’t want you going into the glove compartment,” officers need to understand that this does not create RAS (person clearly has something to hide).

Similarly, if officers search the front seat and the person objects when they open the rear door, that refusal does not create RAS.

ASK: What might make someone who is asked for consent to search feel like they didn’t have a choice?

Someone stopped or arrested CAN give consent to search, but you should be aware that voluntariness is going to be more difficult to demonstrate. The fact of being detained can make a suspect believe that they must follow police directions. Obtaining their voluntary consent for a search has to overcome that belief.

ASK: How could an officer overcome that belief?

ASK: Where can you search once given consent?

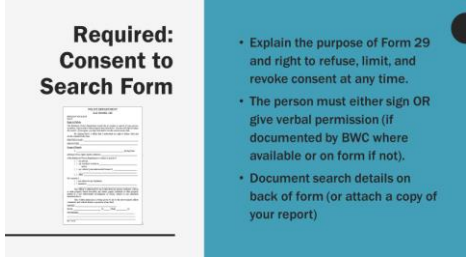
Establishing Consent


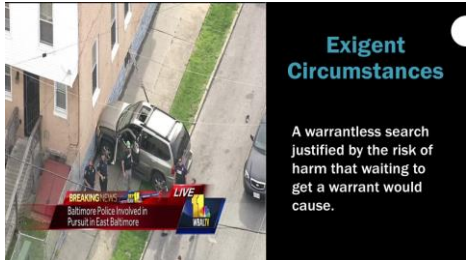


- The search must be voluntary – no threats or other form of coercion.
- The scope must be established and respected
- The consenting person must be able to stop the search at any point

- Officer’s words and tone of voice
- Number of officers present
- Any weapons displayed?
- Any threats or promises made?
- Where is the encounter taking place?
- What is the physical/mental condition of the person being asked?
- Is the person detained or under arrest?
- Careful explanation.
- Avoid any suggestion that they have to consent.
- Tell the person that it is their option, they do not have to consent.
- Record their consent on BWC.

Reasonable person standard. The scope of the Search must be

<p>ASK: What if someone said, “you can search me, but stay out of my left pocket”?</p> <p>ASK: How would you know that someone has revoked their consent?</p> <p>Consent searches must be conducted using the Permission to Search, Form 29.</p> <p>While the front is used to inform the citizen of their rights, the back is used to document the search.</p> <p>On the BACK of Form 29, you must include:</p> <ul style="list-style-type: none"> • RAS for the search. • Whether consent was verbal or in writing • How the search was conducted • If anything was seized during the search <ul style="list-style-type: none"> – The location of any contraband or evidence that was discovered – The name of the member who found and seized the contraband/evidence – Whether the search resulted in an arrest <p>o NOTE: Members may instead attach a copy of the incident report to the form so long as it contains the above information.</p> <p>ASK: Look back at your chart paper and review what you wrote in the Consent quarter. Add anything that seems to be new or different from past practice and past policy. Any observations based on what we’ve gone over?</p>	<p>established and may be limited in any way the person wishes.</p> <p>You are not allowed to consider this (by policy) when deciding whether you have RAS/PC. You also can’t search their left pocket.</p> <p>The person providing consent may stop the Search at any point and must be able to communicate their request to stop the Search.</p> <p>Slide 8</p> <div data-bbox="971 877 1435 1131">  <p>Required: Consent to Search Form</p> <ul style="list-style-type: none"> • Explain the purpose of Form 29 and right to refuse, limit, and revoke consent at any time. • The person must either sign OR give verbal permission (if documented by BWC where available or on form if not). • Document search details on back of form (or attach a copy of your report) </div> <p>Check for responses. The objective is to help them focus their thinking</p>
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	on this one category, consent searches.
<p>Exigent Circumstances</p> <p>GROUP EXERCISE: Prior to each section, have groups work together to write what they know about that type of search. Groups will teach-out to introduce section.</p> <p>Have Group 4 teach out the Exigent Circumstances portion.</p> <p>As they do so, ask guiding questions to probe the contours of the below lesson.</p> <p>Advance to slide once the group has covered the topic and ask instructor questions below to the class and/or group.</p> <p>Exigent circumstances is a category of warrantless searches in which a search is justified by the risk of harm that waiting to get a warrant would cause.</p> <p>It is important to weigh the intrusion against the threat.</p> <p>ASK: What are the potential consequences of these types of searches for public trust and support? Positive? Negative?</p>	<p>Slide 9</p> <div data-bbox="971 380 1435 638">  </div> <p>Slide 10</p> <div data-bbox="971 930 1435 1188">  </div> <p>Look for or prompt for answers:</p> <ul style="list-style-type: none"> • Can be positive – police acting quickly and taking action to prevent harmful things from happening, such as entering a burning building to look for people in danger • Can be negative – police using an exigent circumstance to conduct a search that is not justified, such as using an open door to search a building

When deciding whether exigent circumstances justify a warrantless search, it is important to weigh the intrusion against the threat. How do we do that? We use the Critical Decision Model.

The CDM should be second nature to you. Whenever possible, slow down and carefully review the situation. And even if quick action might be required, you should follow the model:

- Collect information
- Assess the situation
- Consider authority and policy
- Identify options
- Act, review, and re-assess

All guided by ethics, values, proportionality and the sanctity of human life.

One type of exigent circumstances search is justified based on a threat of harm – to you or to others.

Again, weigh the intrusion against the threat.

Another example of exigent circumstances relates to destruction of evidence.

- Limited to evidence of a felony.

Draw the class's attention to the CDM diagram on the wall in the classroom.



Slide 11

<p>Threat of Harm to a Person</p> 	<p>Justified by reasonable belief that entry is required to:</p> <ul style="list-style-type: none"> • Ensure safety of a person • Ensure safety of officers • Ensure safety the public <p>Weigh the intrusion of entry against the need to make entry</p>
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Slide 12

- Do NOT seize the evidence unless there's a threat to safety or preservation of the evidence.
 - Secure the premises and the evidence, freeze the scene, allowing uninvolved occupants to leave.
- Await the arrival of a search warrant.

There are some specific requirements for justifying this kind of search:

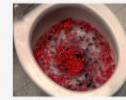
- You must have probable cause that there is evidence in the residence.
- You must have a substantial reason to believe waiting for a search warrant would result in the destruction of evidence.
- The exigent circumstances (evidence is about to be destroyed) CANNOT be caused by an illegal police action, such as threatening to come in when you don't have the right to do so.

ASK: Why is this limited to felonies?

ASK: Why not seize the evidence?

A third type of exigent circumstance relates to entering dwellings when in hot pursuit. BPD has some policy changes related to hot pursuit:

Threat of Destruction of Evidence




- Limited to evidence of a felony
 - Do NOT seize the evidence (unless exigent circumstances require it)
 - Secure the premises and the evidence
- After the scene is "frozen":
- Allow uninvolved occupants to leave
 - Await the arrival of a search warrant

As a policy decision, the department has decided that the threat of destruction of evidence of a misdemeanor isn't worth intruding into someone's home over. Weigh the intrusion against the threat.

The objective is to prevent destruction of the evidence. Once that is accomplished, the exigency is over and there's time to get a warrant.

Slide 13

<ul style="list-style-type: none"> • Limited to fleeing FELONS ONLY -- You may NOT make entry pursuing misdemeanants unless there is a threat of harm to a person • “Hot pursuit” does NOT mean you have to make INSTANT pursuit <ul style="list-style-type: none"> – Wait for backup prior to making entry – Use your radio and resources – Emphasize safety – Do not “force” unsafe situations <p>ASK: Can you pursue an individual with a handgun that runs into a house? What might you consider?</p> <p>Look back at your chart paper and review what you wrote in the Exigent Circumstances quarter. Add anything that seems to be new or different from past practice and past policy. Any observations based on what we’ve gone over?</p>	<div data-bbox="971 193 1437 451"> <h3>Hot Pursuit</h3>  <ul style="list-style-type: none"> • Limited to fleeing FELONS ONLY <ul style="list-style-type: none"> – misdemeanants only if there is a threat of harm to a person • “Hot pursuit” does NOT mean you have to go in right away <ul style="list-style-type: none"> – Wait for backup prior to making entry – Use your radio and resources – Emphasize safety – Do not “force” unsafe situations </div> <p>It’s a misdemeanor, so you can only make entry if there’s threat of harm to a person. Considerations include: time between them making entry and you making entry (danger of ambush), your ability to establish a perimeter and safely de-escalate, etc.</p> <p>Check for responses. The objective is to help them focus their thinking on this one category, exigent circumstances.</p>
<p>Probable Cause Search of a Vehicle</p> <p>GROUP EXERCISE:</p>	<p>Slide 14</p>

Prior to each section, have groups work together to write what they know about that type of search. Groups will teach-out to introduce section.

Have Group 5 teach out the PC Search of a Vehicle portion.

As they do so, ask guiding questions to probe the contours of the below lesson.

Advance to slide once the group has covered the topic and ask instructor questions below to the class and/or group.

Without a search warrant, an officer can generally search a vehicle when:

- the officer has probable cause that the vehicle contains either evidence of a crime OR “always illegal” contraband (such as a large quantity of illegal drugs); AND
- the vehicle is mobile or readily mobile; AND
- the officer has lawful access to the vehicle (for example, it is not parked in someone’s garage).

ASK: What is the SCOPE of this type of search?

When can you conduct a search?

Weapons Pat Down	Arrest
Consent	Exigent
Probable Cause	Inventory

Requires either:

- A search warrant (preferred)
- OR a recognized exception to the warrant requirement such as:
- Weapons Pat Down
- Search Incident to Arrest
- Consent
- Exigent Circumstances
- **PC Search of a Vehicle**
- Community Caretaking (inventory searches, etc)


Slide 15

- Requires Probable Cause
- Search anywhere the evidence you have PC for may reasonably be found
- Can include containers regardless of who owns them
- Can only search cars you have legal access to (not in garage, curtilage, etc)

Probable Cause Search of a Vehicle



- If probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search.
- This applies broadly to all containers within a car, without regard to ownership.
- But remember “the object of the search” – if it’s a crowbar or a baseball bat, you wouldn’t be justified opening a small box.

<p>ASK: How could we perform these types of searches in a way that doesn't adversely affect public trust and support?</p> <ul style="list-style-type: none"> • When practical, seek consent to the search prior to searching a movable vehicle without a warrant. • Make clear that you have probable cause and will conduct the search, but ask them if they are willing to cooperate • Members are encouraged to seek a Search Warrant where practical prior to conducting a search that will likely cause damage to a vehicle. <p>For example: "Sir, we have probable cause to search your vehicle. Before we conduct the search, is there anything you would like to volunteer about what is inside?"</p> <p>Look back at your chart paper and review what you wrote in the Vehicle quarter. Add anything that seems to be new or different from past practice and past policy. Any observations based on what we've gone over?</p>	<p>These tend to be very visible searches, so ensure that they're conducted properly, not done unnecessarily, not needlessly damaging the car, etc.</p> <p>Slide 16</p> <div data-bbox="971 581 1435 840">  </div> <p>Check for responses. The objective is to help them focus their thinking on this one category</p>
<p>Community Caretaking (Inventory Search)</p> <p>GROUP EXERCISE:</p>	<p>Slide 17</p>

Prior to each section, have groups work together to write what they know about that type of search. Groups will teach-out to introduce section.

Have Group 6 teach out the inventory search portion.

As they do so, ask guiding questions to probe the contours of the below lesson.

Advance to slide once the group has covered the topic and ask instructor questions below to the class and/or group.

An inventory search is a type of “community caretaking” search. These searches are NOT done to look for evidence; they’re done in order to preserve order and protect the public.

When members legally take a container into their possession (whether to tow, take to ECU, etc), they are to conduct an inventory search of the container and everything inside the container.

An inventory search is performed to:

- protect an owner's property while it is in the custody of the police
- ensure against claims of lost, stolen, or vandalized property
- And guard the police from danger related to seized property

NOTE: An inventory search is NOT a search for evidence.

When can you conduct a search?

Weapons Pat Down	Arrest
Consent	Exigent
PC Vehicle	Inventory

Requires either:

- A search warrant (preferred)
- OR a recognized exception to the warrant requirement such as:
- Weapons Pat Down
- Search Incident to Arrest
- Consent
- Exigent Circumstances
- PC Search of a Vehicle
- Community Caretaking (inventory searches, etc)

Slide 18

Inventory Searches



An inventory search is performed to:

- protect an owner's property while it is in the custody of the police
- ensure against claims of lost, stolen, or vandalized property
- guard the police from danger related to seized property

NOTE: An inventory search is NOT a search for evidence.

ASK: After you have arrested the driver of a vehicle, will you perform an inventory search of his car?

To discourage “fishing expeditions,” inventory searches are only allowed where officers are guided by standard procedure.

Our procedure:

- Owners can generally take possession of personal property prior to tow/submission
- If we are taking a container into our possession (tow, ECU, etc), conduct an inventory search of the container
- Inventory everything inside the container, opening closed containers

ASK: What is our standard procedure when it comes to inventory searches?

ASK: Where WOULD be reasonable places to check during an inventory search of a vehicle?

No. Not unless the vehicle has to be towed.

Slide 19



Inventory Searches

- Inventory searches are only allowed where officers are guided by standard procedure
- Our procedure:
 - Owners can generally take possession of personal property prior to tow/submission
 - If we are taking a container into our possession (tow, ECU, etc), conduct an inventory search of the container
 - Inventory everything inside the container, opening closed containers

To open and inventory all closed containers before we have the vehicle towed or the item submitted to ECU in order to:

- protect an owner's property while it is in the custody of the police
- ensure against claims of lost, stolen, or vandalized property
- And guard the police from danger related to seized property

NOT a search for evidence

Glove compartment

When documenting the RAS, PC, or other basis for actions that you take, put yourself in the position of the court commissioner, prosecutor, or judge. Make sure your description is detailed and thorough enough that they can understand exactly why you took the actions you did. Don't assume that they can fill in the blanks – fill them all in yourself.

- Inventory – List in Incident Report

Slide 21

Documentation Tips

Avoid terms that don't paint a specific picture:

- "Characteristics of an armed person"
- "Furtive movement"
- "Officer safety"
- "My investigation revealed..."
- "Chimel area"

Template vs. Boilerplate

III. EVALUATION/CLOSURE

Group Work:

Review the scenario on the slide. Meet in your groups to discuss and answer the 4 questions on your handout.

There was a shooting the night before in Old Town Mall where a white, 2-door sedan with tinted windows was supposed to have been involved.

Dave Smith is a known "shooter" in the area and is standing outside of a white, 2-door Honda Accord parked partially blocking an entrance to the mall from Forrest Street Apartments.

Detective Mills thinks that Smith might have been involved, so he approaches him for a Field Interview.

As he does so, he sees Smith toss a cigar and Mills notices that Smith smells strongly of marijuana.

Smith is a known shooter, so Mills pats him down, finds nothing, and then places Mills under arrest. Mills then asks if he can search the car. Smith says, "man, do what you're gonna do." Smith is then placed in a cage car.

Mills goes straight to the trunk and finds a handgun.

The car is towed to the Eastern District for processing.

Slide 22

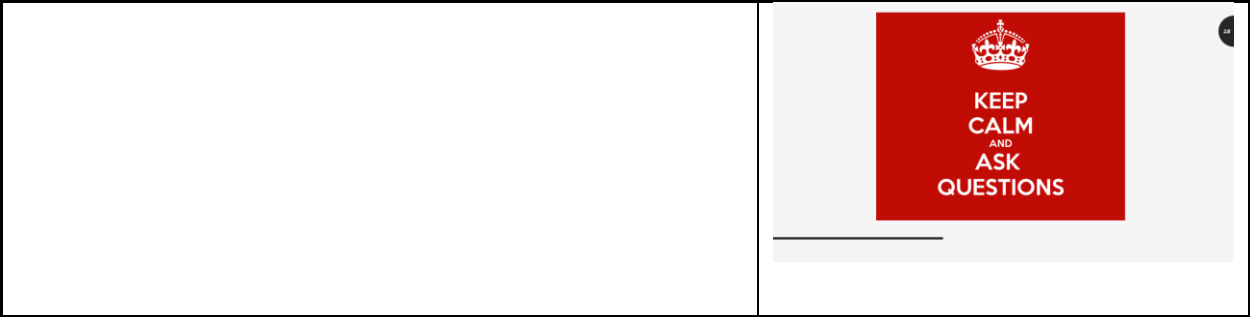
- Shooting the night before involving white, 2-door sedan with tinted windows
- Dave Smith is a known "shooter"
- Standing outside of a white, 2-door Honda Accord parked partially blocking an entrance to Old Town mall
- Detective Mills approaches for an FI
- Smith tosses a cigar, smells strongly of marijuana
- Mills pats him down, finds nothing
- Smith is placed under arrest
- Mills asks if he can search the car. Smith says, "man, do what you're gonna do."
- Smith is placed in a cage car.
- Mills goes straight to the trunk and finds a handgun.
- Car is towed to the Eastern District for processing.
- Prior to tow, Mills performs an inventory search of the car and finds a pound of marijuana broken into bags in a backpack on the back seat.

Group Exercise:

Give groups 3 minutes to discuss and answer the questions (Attachment A). Then poll the class on the answers – all should be "no" (explanations below).

<p>Prior to tow, Mills performs an inventory search of the car and finds a pound of marijuana broken into bags in a backpack on the back seat.</p> <p>ASK: Was this a valid pat down?</p> <p>ASK: Was this a proper search incident to arrest? Consider both law and policy in coming to your answer.</p> <p>ASK: Was this a proper consent search? Consider both law and policy in coming to your answer.</p> <p>ASK: Was this a valid search based on exigent circumstances? Explain.</p> <p>ASK: Was this a valid PC search of a vehicle? Explain.</p> <p>ASK: Was this a valid inventory search?</p>	<p>No. There was RAS of criminal activity, but no RAS of armed/dangerous. Even though he's a "known shooter," that's not enough to pat him down automatically without more.</p> <p>Without more, there wasn't PC to arrest Smith for a marijuana violation (less than 10 grams is a civil offense). And an arrest for littering is not the "least intrusive response" possible under the circumstances.</p> <p>No. Smith wasn't read the consent form and didn't give a solid "yes." A person under arrest CAN give valid consent, but it's tough to prove voluntariness, especially under these circumstances.</p> <p>No. There might be evidence in the car, but there is no indication that it is about to be removed or destroyed.</p> <p>It could be. If Mills can tie Smith and the odor of marijuana to the vehicle and articulate his basis for believing that more marijuana is to be found in the car, it might justify a Carroll search.</p> <p>No. It could have been if the vehicle was being towed due to the</p>
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<p>Follow-up Question ASK: What could have justified a search in this situation?</p> <p>Any questions?</p>	<p>obstruction.</p> <p>In this case, it was being towed as evidence.</p> <p>And an inventory search MUST be conducted according to standard departmental procedure.</p> <p>BPD Policy 902 specifically states that, “When a vehicle is seized as evidence, do not inventory the vehicle.”</p> <p>Then ask the class the follow-up question.</p> <p>Possible answers:</p> <ul style="list-style-type: none"> • If the car from the shooting was a white Honda Accord and there was some additional detail, such as a tag number or identifiable damage. This should be combined with evidence suggesting that there’s evidence of the crime in the car, which will depend on how the car was “involved.” • If better consent was obtained • If someone came to the car and matched a suspect description for the shooting – possibly basis for an arrest and then either: PC search of the vehicle for evidence of the crime, possible search incident to arrest (depending on where he was), possible inventory search (depending on the disposition of the vehicle). • A pat down might also have been justified if the car was tied to the shooting <p>Slide 23</p>
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Attachment A

Vehicle Search Scenario

Was this a search incident to arrest? Explain.

Was this a consent search? Explain.

Was this a search based on exigent circumstances? Explain.

Was this a PC search of a vehicle? Explain.