

	Greenville, SC Police Department		
	<b>GENERAL ORDER</b>		
<b>Subject</b> Search and Seizure	<b>Number</b> 112A5	<b>Type</b> Administrative	
<b>Effective Date</b> 3/29/2024	<b>Amends/ Rescinds</b> 112A4	<b>Pages</b> 1 of 15	<b>Re-evaluation</b> Annual-February
<b>References</b> CALEA 1.2.4; 1.2.8		<b>Notes</b> Added section 3.4.1. Removed section 4.2.7, 4.3.1 and 4.3.3. Minor wording changes throughout. Section 8.3 wording added.	

## 1.0 POLICY

The legal requirements for proper conduct of a search and/or seizure in law enforcement situations is broadly addressed in the United States Constitution, South Carolina state law and by case law promulgated by the various courts having jurisdiction. The purpose of this policy is to outline the general requirements and expectations that an officer must meet in balancing the processes of criminal investigation and prosecution with the rights afforded to individuals and residences through the Constitution and other statutory and case law. Officers of the Greenville Police Department will abide by all current constitutional, statutory and judicial guidelines regarding searches and seizures conducted either with or without a warrant. Searches of people, places, and things will be accomplished in a manner that protects constitutional rights, minimizes intrusion, preserves evidence or fruits of a crime, and ensures the safety of all parties.

The Greenville Police department recognizes that the 4<sup>th</sup> Amendment clearly prefers a search warrant as the means to search, when there is a reasonable expectation of privacy, and where probable cause exists and time and circumstances allow. Warrantless searches should be conducted only when obtaining a warrant is impractical, given the circumstances, or when there is no reasonable expectation of privacy, such as in an open field or with abandoned property. When searching with a warrant, officers may search all areas described, where the items sought may reasonably be believed to be found.

## 2.0 DEFINITIONS

**Curtilage:** The yard and buildings which relate to domestic activities and surround a residence or dwelling place, generally including garages, sheds, outhouses, driveways, barns, fenced in areas around the house and the like. It does not include vehicles, commercial business structures or open fields

surrounding a residence. For apartments or multi-unit dwellings, it also does not include fire escapes, lobbies or common hallways.

**Custodial Arrest:** A procedure (also referred to simply as “arrest”) in which an officer arrests and then transports a person to a detention facility to await bond or an appearance before a magistrate or administrative judge.

**Field Interview:** The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual’s identity and resolving the officer’s suspicions.

**Plain View:** The sensing of something (sight, smell, hearing, etc.) from a vantage point where the person, typically an officer, has a lawful right to be present. Devices designed to enhance an officer’s detection ability are generally accepted by the courts as falling under the plain view doctrine. Flashlights, binoculars, scent detecting canines, radar, aircraft, etc. are considered reasonable aids to detection and are generally considered plain view.

**Probable Cause:** That total set of apparent facts and circumstances based on reasonably trustworthy information which would warrant a prudent person (in the position of and with the knowledge of the particular officer) to believe something, for example, that a particular person has committed some offense against the law or an item of contraband may be present in a certain location.

**Reasonable Suspicion:** Articulable facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been, is being, or is about to be committed.

**Seizable Property:** All property subject to seizure, including unlawful weapons, drugs, and other contraband, stolen or embezzled property (fruits of a crime), equipment, devices, instruments or paraphernalia for committing an offense (instrumentalities), and evidence of a particular crime.

**Seize:** To lawfully take possession of an item(s), person(s), property, or other entity as evidence, contraband, or for safety reasons.

### 3.0 **WARRANTLESS SEARCH: BY CONSENT**

3.1 A search that is made with the voluntary consent of one authorized to give consent is a lawful exception to the warrant requirement. Consent to search must be voluntary and based on free and unconstrained choice. Voluntariness is measured by the sum total of surrounding circumstances to include:

- Number of officers present



- Time of day or night
- Manner of the request
- Display/absence of weapons by officers
- The physical or mental condition of the person granting consent
- Whether or not the person is in police custody at the time the request was made.

- 3.2 Consent to search can only be given by a person who is in lawful possession of the premises or property.
- 3.3 The person granting consent to search controls the conditions, scope and time of the search and may revoke consent at any time during the search. For a consent search to be valid, the consenting party must be in a position to revoke consent at any time during the search, and upon consent being revoked, the search must immediately be terminated. To meet this requirement, an officer must remain with the person granting consent and the officer must be able to efficiently and timely communicate any withdrawal or limitation to consent to the officer(s) searching under this consent.
- 3.4 Consent to search may be obtained in writing using an approved “Consent to Search” form when feasible. This form advises the individual that they have the right to withhold consent and is the only warning required. If the person indicates that they will consent to a search but refuse to sign the form the form should still be completed and the refusal to sign indicated.
- 3.4.1 Consent to search may be provided and captured by BWC. This can be used for any consent to search request. The incident report or CAD case should indicate permission was granted and captured via BWC.
- 3.5 In Driving Under the Influence and Felony Driving Under the Influence cases, consent to search the person’s breath, blood, and/or urine is implied, until withdrawn or refused by an individual.

#### 4.0 **TERRY FRISK**

- 4.1 A law enforcement officer has the right to perform a Terry Frisk search of the outer garments of a suspect for weapons if (1) the suspect has been legitimately stopped with reasonable suspicion and (2) only when the officer has reason to believe that the suspect possesses weapons on his or her person and poses a threat to the officer’s or another person’s safety. Not every field interview poses sufficient justification for conducting a Terry Frisk search.



- 4.2 Following are some criteria that may form the basis for establishing justification for performing a Terry Frisk. Officers should note that these factors are not all-inclusive; there are other factors that could or should be considered. The existence of more than one of these factors may be required in order to justify a Terry Frisk.
- 4.2.1 The type of crime suspected—particularly in crimes of violence where the use or threat of deadly weapons is involved.
  - 4.2.2 Where more than one suspect must be handled by a single officer.
  - 4.2.3 The hour of the day and the location or neighborhood where the stop takes place.
  - 4.2.4 Prior knowledge of the suspect’s use of force and/or propensity to carry deadly weapons.
  - 4.2.5 The appearance and demeanor of the suspect.
  - 4.2.6 Visual indications that suggest that the suspect is carrying a firearm or other deadly weapon.
- 4.3 When reasonable suspicion justifies a Terry Frisk search, the search should be performed with due caution, restraint, and sensitivity. These searches may only be performed to protect the safety of officers and others.
- 4.3.1 In a Terry Frisk search, officers are permitted only to feel the outer clothing of the suspect. Officers may not place their hands in pockets, or manipulate the object from the exterior, unless they feel an object that could reasonably be a weapon, such as a firearm, knife, club, or other item, and which the officer immediately/readily recognizes to be so.
  - 4.3.2 If an officer detects an item that he/she reasonably believes is contraband, based on his/her experience and training and which the officer immediately/readily recognizes to be so, the officer may seize the item and subsequently use the item as grounds for arrest if possession of the item is unlawful.
  - 4.3.3 If the external feeling of the suspect’s clothing fails to disclose evidence of a weapon, no further search may be made. If evidence of a weapon is present, an officer may retrieve that item only. If the item is a weapon, the possession of which is a crime, the officer may make an arrest of the suspect and complete a search incident to arrest.



**5.0 WARRANTLESS SEARCH: PROTECTIVE SWEEP**

The main purpose of a protective sweep at a crime scene is to determine dangers to officers. Identify people and objects where they are that may harbor weapons in the immediate vicinity (where they are; couch, chair, vehicle)

- 5.1 Officers responding to the scene of an emergency, or any crime, may conduct a protective sweep of the immediate vicinity or within immediate control of a scene for safety reasons. The protective sweep must be limited to a cursory inspection of places where a person may hide, and last no longer than is necessary to dispel the reasonable suspicion of danger. Once the scene is secured a search warrant may be obtained if further investigation is warranted.
- 5.2 During a protective sweep, and/or securing the immediate control, officers may seize any evidence or contraband in plain view.
- 5.3 Any extended search of premises directed against any person possessing Fourth Amendment protection in that premises must be done with a search warrant or with that person's consent.

**6.0 WARRANTLESS SEARCH: EXIGENT CIRCUMSTANCES**

- 6.1 The law recognizes that under certain emergency circumstances, the requirement of a search warrant is waived and an officer may properly make warrantless searches, entries, and/or seizures.
- 6.2 Immediate warrantless searches, entries, and/or seizures are justified:
  - 6.2.1 To protect life and safety
  - 6.2.2 To arrest a fugitive in hot pursuit
  - 6.2.3 To preserve evidence from being destroyed or removed
  - 6.2.4 To render immediate aid or in response to an actual emergency such as a fire, where the life or well-being of a person or persons is at stake
  - 6.2.5 In other cases where “there is compelling need for official action and no time to secure a warrant.”
- 6.3 Such searches, entries, and/or seizures can be made only under extraordinary circumstances. Officers should be prepared to justify their conduct by facts supporting a reasonable belief that exigent circumstances or an emergency existed.



- 6.4 Once the exigent circumstance no longer exists, the situation is stable, and there is reason to believe that evidence of a crime exists, other means of continuing the search must be obtained, such as consent or a warrant.

#### 7.0 **WARRANTLESS SEARCH: SEARCH INCIDENT TO ARREST**

- 7.1 The authority to search following a custodial arrest is an exception to the warrant requirement and allows a full and complete search for weapons, implements of escape, or evidence of the arrestee's crime. The search should be made at the time and place of arrest or as soon thereafter as practicable.
- 7.2 A search incident to arrest includes the person arrested, the area, and portable personal property within his/her immediate control at the time of arrest. The area of immediate control is any place where an arrested person could reach to seize a weapon or destroy evidence.
- 7.3 A protective sweep of premises where an arrest is made may be conducted if the officer has a reasonable suspicion that confederates, accomplices, or others are present and could jeopardize the safety of the officer(s) or arrestee. The protective sweep is limited to a brief inspection of only those places where a person could be concealed. Evidence or contraband that is discovered in plain view during a protective sweep may be seized or the observation used to obtain a search warrant.

#### 8.0 **WARRANTLESS SEARCH: VEHICLE EXCEPTION**

Search of vehicles without a warrant may be conducted as with searches of other premises; however, case law known as the Carroll Doctrine sets vehicles apart from other premises due in part to the vehicle's mobility. The vehicle exception to the warrant requirement does not normally include vehicles in the curtilage of a private property unless the vehicle came to be there during a lawful traffic stop. The following items outline the warrantless searches which are specific to vehicles as a result.

##### 8.1 Probable Cause

Vehicles, where there is no significant chance the vehicle will be driven away or that the evidence contained within it will be removed or destroyed, should be searched only after a warrant has been obtained, or the officers determine that some other exception to the warrant requirement exists. Such instances include but are not limited to: vehicles which are inoperable, impounded, or seized.

Probable cause searches may extend to all areas of the motor vehicle, unless the probable cause is limited to a specific area of the vehicle.



Officers may not search areas of the vehicle that could not contain the fruits, instrumentalities, or evidence of a crime or contraband being sought.

**Note:** Any search of a vehicle outlined below may, at any time become a probable cause search of a vehicle, if fruits, instrumentalities, or evidence of a crime or contraband are located.

## 8.2 Consent

Officers may search a vehicle, as with anything else, with the oral or written consent of the operator or owner of the vehicle.

## 8.3 Incident to an Arrest

Officers may conduct a search of a vehicle incident to a valid arrest of the operator or occupants of the vehicle only if the arrestee is unsecured and within reaching distance of the vehicle's passenger compartment only if it is reasonable to believe that the arrestee might access the vehicle at the time of the search or that the vehicle contains evidence of the offense of arrest. Searches of vehicles conducted incident to the arrest of an occupant shall be limited to areas within reach and control of the arrestee (normally the passenger area of the vehicle). The trunk, the engine compartment, and locked compartments within the passenger area normally may not be searched incident to an arrest.

## 8.4 Search for Weapons

Where there is an objectively reasonable belief that a driver or occupant of a vehicle is potentially dangerous, officers may conduct a search of the vehicle for weapons. Searches for weapons should be conducted under the same circumstances outlined for the Terry Frisk search of an individual. Searches for weapons normally must be confined to the passenger area of the vehicle and those areas of the passenger compartment in which a weapon could be hidden. Areas may not be searched that are not immediately accessible to the vehicle's occupants, such as locked glove compartments.

## 8.5 Vehicle Identification Number or Vehicle Ownership

Where circumstances require that officers determine the vehicle identification number or ownership of a vehicle, and such information cannot be acquired from the exterior of the vehicle, officers may enter the vehicle to obtain this information. Entries made to examine the vehicle





identification number or to determine the ownership of the vehicle must be limited to actions reasonably necessary to accomplish these goals.

#### 8.6 Emergencies

Officers may enter a vehicle without a warrant where emergency circumstances make it necessary for them to do so in order to protect life or property, or when the exigencies of the situation otherwise require such action. Emergency searches of vehicles may differ from other emergency searches, because it may also serve as a means for escape and may be substantially compartmentalized. Like other emergency searches, these are limited in scope to the time and areas required to address the emergency. Once the emergency has been alleviated the search must be ceased.

#### 8.7 Containers

Containers found in a vehicle during a lawful search may be opened and searched as follows:

8.7.1 Unlocked Containers: Authority to search unlocked containers found in the motor vehicle is determined by the nature of the search.

#### 8.7.2 Probable Cause Searches

In a probable cause search, containers such as paper bags, cardboard boxes, wrapped packages, etc., wherever found in the vehicle, may be opened, provided that they could contain the items being searched for.

#### 8.7.3 Consent

Containers discovered during a consent search of the vehicle may be opened provided that the terms of the consent expressly permit or reasonably imply that the particular container may be opened.

#### 8.7.4 Incident to Arrest

When the passenger compartment of a vehicle is being searched incident to an arrest, unlocked containers found within the passenger compartment may be opened, provided that they could contain the items being searched for.





### 8.7.5 Other Circumstances

Unlocked containers found in a vehicle under circumstances that do not justify an investigatory search of the container under any of the foregoing exceptions to the search warrant requirement should be secured but not searched until a warrant is obtained to search them.

### 8.7.6 Locked Containers

8.7.6.1 Locked containers such as attaché cases, suitcases, and footlockers found during a vehicle search should be opened only in the following cases:

8.7.6.2 The search is being conducted under a warrant.

8.7.6.3 There is probable cause to believe that a container located in the motor vehicle contains contraband or evidence.

8.7.6.4 A valid consent to open the locked container is first obtained. In other types of searches, locked containers should be secured by search personnel and opened only after a warrant has been obtained.

### 8.7.7 Items Belonging to Passengers

8.7.7.1 Items belonging to passengers (e.g., wallets, handbags, purses) may be examined only in the following cases:

8.7.7.2 Officers have probable cause to search the vehicle, and the belonging in question is capable of concealing the item or items being searched for.

8.7.7.3 Officers have received valid consent to search the item.

8.7.7.4 A passenger has been placed under arrest, and the arrested passenger's belongings are being lawfully searched incident to that arrest.

## 9.0 INVENTORY OF A VEHICLE OR OTHER PROPERTY

Whenever an officer causes a vehicle to be towed, with or without the owner's consent, an inventory of the vehicle will be completed to protect the owner's property, to protect the department against claims of theft and/or damage, and to protect officers and the public from dangerous instrumentalities. If the vehicle is



secured, and access to the interior is not available, a visual inventory of the vehicle will suffice. The circumstances and findings of the inventory will be documented in the incident report and in the available space on the tow report.

9.1 The concept of inventory is based on the fact that police officers frequently come into possession of property belonging to other people and is based on three primary interests:

9.1.1 Protecting the owner's property

9.1.2 Protecting officers against claims of theft or damage, and

9.1.3 Protecting the police and public against dangerous instrumentalities.

9.2 An officer must have lawful custody of the vehicle or property to conduct an inventory.

9.3 Contraband and/or evidence may be seized during an inventory.

9.4 A written report (tow, evidence, incident, supplemental, etc.) will be made on all property taken into police custody that is inventoried and will be maintained in police records.

9.5 Items of high value (guns, jewelry, cash over \$50, electronics, etc.) or personal identification (Social Security cards, driver's licenses) will be returned to the owner or taken into police custody and placed in Property and Evidence for safekeeping.

## 10.0 STRIP SEARCH

10.1 An officer may make an in-custody strip search when the officer reasonably believes that the individual may be concealing contraband or weapons. The decision to make a strip search may be based upon, but is not limited to, the following:

10.1.1 The nature of the offense charged.

10.1.2 The arrestee's appearance and demeanor.

10.1.3 The circumstances surrounding the arrest.

10.1.4 The arrestee's criminal record, particularly past crimes of violence and narcotics offenses.

10.1.5 The discovery of evidence of a major offense in plain view or in the course of a search incident to arrest.

10.1.6 Detection of suspicious objects beneath the suspect's clothing during a field search incident to arrest.



- 10.2 Field strip searches of prisoners will be conducted only in the rarest of circumstances under exigent circumstances where the life of officers or others may be placed at risk, and only in privacy with the explicit approval of a supervisory officer.
- 10.3 When an officer determines that a strip search is warranted the search will be conducted under the following guidelines:
- 10.3.1 The arrested person will be kept under constant surveillance until the search is conducted in order to prevent the subject from destroying evidence or contraband.
- 10.3.2 Officers will obtain supervisory approval before conducting a strip search.
- 10.3.2.1 A strip search of a juvenile is of a more sensitive nature. In addition to explicit supervisory approval, attempts to contact the parent or guardian shall be made prior to any strip search.
- 10.3.2.2 When practical, a parent/guardian will have the option to be present for the strip search.
- 10.3.3 Officers will take the necessary precautions to prevent any possible contamination. Necessary precautions may include the wearing of protective gloves or other protective equipment.
- 10.3.4 Strip searches will be conducted in a controlled environment which provides adequate protection of the arrested person's privacy and dignity.
- 10.3.5 The strip search will be conducted and witnessed only by officers of the same sex as the arrested person. At least two same sex officers will be present during the search.
- 10.3.5.1 In situations where the person to be strip-searched identifies as a gender different than their identification, at least two officers of the sex the person to be searched identifies as will conduct the strip-search.
- 10.3.5.2 Officers are not responsible for inquiring the persons gender/identity expression. It is the subject's duty to inform officers of their gender identity/expression.



- 10.3.6 The officer will inform the arrested person of the intention to conduct a strip search thus giving the subject the opportunity to surrender any contraband material.
- 10.3.7 The officer will direct the arrested person to surrender any or all articles of clothing, to include wigs and dentures, to the officer for inspection.
- 10.3.8 The search will be fully documented on the Incident Report.
- 10.3.9 The search will be documented on BWC in accordance with GO 247 Body Worn Cameras. “The use of strip searches is highly intrusive and therefore closely regulated and monitored. To preserve the dignity of persons subjected to such a search, an officer will comply with all search preparation requirements. Prior to the search, the searching officer will record a 360-degree view of the subject and location where the strip search is being conducted. All officers present will then place the BWC in a direction facing away from the subject immediately prior to the search itself, so the subject will not be visually recorded during the strip search, and will continue recording to ensure the existence of an audio recording of the search.”

## 11.0 **BODY CAVITY SEARCH**

- 11.1 Should visual inspection of an arrested person during a strip search and/or other information lead an officer to believe that the suspect is concealing a weapon, evidence or contraband within a body cavity, other than the mouth, the following procedures will be followed:
- 11.1.1 The arrested person will be kept under constant surveillance until the search is conducted to prevent the subject from destroying evidence or contraband.
- 11.1.2 The officer will consult with his/her immediate supervisor to determine whether probable cause exists to seek a search warrant for a body cavity search.
- 11.1.2.1 The decision to seek a search warrant will recognize that a body cavity search is highly invasive of personal privacy and is reasonable only when the suspected offense is of a serious nature and/or poses a threat to the safety of officers.



11.1.2.2 The provisions under strip searches dealing with juveniles and those who identify as a gender different than their identification will apply to body cavity searches.

11.1.3 If probable cause exists for a body cavity search, an affidavit for a search warrant will be prepared that clearly defines the nature of the alleged offense and the basis for the officer's probable cause.

11.1.4 Officers will take the necessary precautions to prevent the possibility of contamination. Necessary precautions may include the wearing of rubber gloves or other protective equipment.

11.1.5 Body cavity searches will be conducted in a controlled environment which provides adequate protection of the arrested person's privacy.

11.1.6 The body cavity search will be conducted and witnessed only by officers of the same sex as the suspect. At least two same sex officers will be present during the search.

11.1.7 The officer will inform the arrested person of the intention to conduct a body cavity search, thus giving the subject the opportunity to surrender any contraband material.

11.1.8 On the basis of a search warrant, a body cavity search will be performed by medically trained personnel.

11.1.9 The body cavity search will be fully documented in the incident report.

## 12.0 **ORAL CAVITY SEARCH**

12.1 Officers may reasonably order an arrestee to cough and dislodge items which the arrestee has within his/her mouth.

12.2 Physical force will not be used to extract drugs or evidence from a suspect's mouth.

12.2.1 Due to the risk of overdose, suspects who are in custody, and who have ingested drugs or evidence, or where there is a reasonable suspicion that the in-custody suspect has ingested drugs or evidence, shall be transported by Greenville County EMS to the hospital for treatment. The officer shall:



- 12.2.2 Upon the subject being examined by medical personnel, inform the medical personnel of the facts as known by the officer regarding the arrestee's ingestion of the contraband.
- 12.2.3 Not advise, instruct, direct, request and/or insinuate to the medical personnel as to any particular medical course of action or outcome or any medical procedure, therapy and /or treatment.
- 12.2.4 While medical attention is being administered to a person in custody, remain readily available at the site of the person receiving medical attention.
- 12.3 If an individual, who is not an arrestee or is a non-custodial arrestee (summons), has or is believed to have ingested drugs or evidence, the officer shall call for Greenville County EMS to respond for medical treatment.
- 12.3.1 Should the individual leave the scene or refuse medical attention, his/her refusal shall be documented.
- 12.4 If, at any time, the contents, that the officer reasonably believes to be contraband in the arrestee's mouth, stomach, etc., come outside of the arrestee's body the officer shall, to the extent reasonable, collect and preserve those contents as evidence.

### 13.0 SEIZURE WITHOUT A WARRANT

- 13.1 An officer may seize contraband or evidence in plain view when the officer has a lawful right to be present at the vantage point where the detection is made. The evidentiary or illegal nature must be readily apparent.
- 13.2 Officers may seize evidence or contraband discovered during the course of a lawful search. Seizure during a search is limited to the scope lawfully allowed by the search.
- 13.3 Officers may seize evidence and contraband discovered while performing an inventory.
- 13.4 Officers may seize abandoned property. Abandoned property which is not evidence, contraband, dangerous, or otherwise a concern of law enforcement agents should be identified and returned to the rightful owner, if possible. If a rightful owner cannot be determined or located the property should be handled in accordance with policies regarding found property.



- 13.5 Officers may seize an individual, without making an arrest, in order to stop them from imminently destroying evidence. Such seizure should be limited in duration, and normally will be terminated when the evidence has been safeguarded unless such evidence provides probable cause for the arrest of the individual.

DocuSigned by:

*J. H. Thompson*

3/29/2024

EDD8660A95F04FA...

J.H. Thompson, Chief of Police

Date

DS  
*ML*

