



TIVERTON POLICE DEPARTMENT GENERAL ORDERS

Subject: Motor Vehicle Searches		General Order Number: 330.70
Section: 300- Law Enforcement Operations		Subsection: 30- Traffic
Amends/Supersedes: 4-1, 4-2, 360.20 (04/13/2015), 360.20 (03/18/2019)		
Effective Date: 09/29/2020	Revised Date: 09/29/2020	Review Date: As Needed
Per Order Of: Patrick W. Jones, Chief of Police		
RIPAC: 2.5		
Distribution: Sworn Department Members		

NOTE: This written directive is for the internal governance of the Tiverton Police Department, and is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

I. PURPOSE

The purpose of this policy is to provide department personnel with guidelines for the search of motor vehicles.

II. POLICY

It is the policy of the Tiverton Police Department to conduct motor vehicle searches that are both legal and thorough. Such searches are to be conducted in strict observance of the constitutional rights of the owner and occupants of the motor vehicle being searched, and with due regard for the safety of all officers, other persons, and property involved.

III. DEFINITIONS

Motor Vehicle: Any vehicle operating or capable of being operated on public streets or highways, to include automobiles, trucks, trailers, recreational vehicles, mobile homes, motor homes, and any other type of vehicle, whether self-propelled or towed. This policy does not apply to vehicles of any type that have been immobilized in one location for use as a temporary or permanent residence or storage facility, or which are otherwise classified by the law as residences or buildings.

Search: An examination of all or a portion of the vehicle with an investigatory motive (i.e., for the purpose of discovering fruits, instrumentalities, or evidence of a crime or contraband). A vehicle search may also be conducted to determine the vehicle identification number or the ownership of the vehicle. Inventories of personal property conducted pursuant to impoundment of a vehicle are not covered by this policy.

IV. PROCEDURES

- A. Types of Vehicle Searches
 - 1. Searches with a Warrant

Whenever possible, officers desiring to search a motor vehicle shall first obtain a warrant. Warrantless searches are to be conducted only when lack of time or other exigencies make it impractical for a warrant to be obtained. When searching with a warrant, officers may search all areas of the vehicle unless the warrant states otherwise.

2. Searches and Entries without a Warrant

When it is impractical to obtain a warrant for the search of the vehicle, a warrantless search of, or entry into, the vehicle may be conducted in the following situations:

a. Probable Cause

Officers may search a vehicle without a warrant where there is probable cause to believe that the vehicle contains fruits, instrumentalities, or evidence of a crime or contraband. This type of warrantless search shall be conducted only when the vehicle remains mobile. When a vehicle has broken down, or there is otherwise no significant chance the vehicle will be driven away or that evidence contained within it will be removed or destroyed, officers shall search the vehicle only after a warrant has been obtained or the officers determine that some other exception to the warrant requirement is applicable. 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.

b. Consent

Officers may search a vehicle with the oral or written consent of the operator or owner of the vehicle. Written consent should be obtained whenever possible. Officers shall not obtain consent by any form of coercion or duress. The extent of a consent search depends upon the terms of the consent itself. If the consent is general, all areas of the vehicle may be searched. If the consent is limited to specific areas of the vehicle, officer may search only the portions of the vehicles covered by the consent.

(1) No operator or owner-passenger of a motor vehicle shall be requested to consent to a search of his or her motor vehicle which is stopped solely for a traffic violation, unless reasonable suspicion or probable cause of criminal activity exists (R.I.G.L. 31-21.2-5).

c. 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 or if the search or if is reasonable to believe 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.

d. 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 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.

e. 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.

f. 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. Search of a motor vehicle under emergency circumstances not otherwise covered under the warrant exceptions enumerated above must be co-extensive with the nature of the emergency. The proper extent of the search must therefore be determined by search personnel in each specific situation, but in no event will the extent of the search exceed that necessary to respond properly to the emergency. Note: Where the initial search discloses probable cause to believe that other portions of the vehicle may contain fruits, instrumentalities, or evidence of a crime or contraband, any additional portions of the vehicle may be searched that could reasonably contain the items being sought.

B. Scope of Containers Found in Vehicle

If any otherwise-lawful search of a vehicle is being conducted, containers found in the vehicle may be opened and searched as follows:

1. Unlocked Containers

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

a. 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.

- b. 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.
- c. 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.
- d. 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.

2. Locked Containers

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

- a. The search is being conducted under a warrant.
- b. There is probable cause to believe that a container located in the motor vehicle contains contraband or evidence.
- c. 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.

3. Items Belonging to Passengers

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

- a. Officers have probable cause to search the vehicle, and the belonging in question is capable of concealing the item or items being searched for.
- b. Officers have received valid consent to search the item.
- c. A passenger has been placed under arrest, and the arrested passenger's belongings are being lawfully searched incident to that arrest.

C. Location and Time of Search

Whenever possible, search of a motor vehicle and containers found therein should be conducted at the location where the vehicle was discovered or detained. Under exigent circumstances, search of the vehicle or container may be delayed and/or conducted after the vehicle or container has been moved to another location. However, in all instances searches shall be conducted as soon as is reasonably possible, that is, as soon as adequate personnel are available to conduct a thorough search with due regard for the safety of all officers, citizens, and property concerned.

D. Conduct of the Search

1. Minimizing Intrusiveness

Although all searches should be conducted with thoroughness, motor vehicle searches shall be conducted in a manner that minimizes the

intrusiveness of the search and the inconvenience caused to vehicle owners, occupants, and other persons involved. Where possible, damage to the vehicle or to other property in the course of the search should be avoided. Where unavoidable, such damage should be confined to that reasonably necessary to carry out a safe and thorough search. Where applicable, a backup officer should be summoned if available.

2. **Ordering Occupants Out of Vehicles**
For their own safety, police officers may order both operator and passengers out of a vehicle during a search.
- E. **Abandoned Vehicles**
If it is determined by an officer that a vehicle has been abandoned, the vehicle may be searched without a warrant.
- F. **Handling of Evidence Found during Vehicle Searches**
Any evidentiary items discovered in the course of a motor vehicle search shall be collected, handled, packaged, marked, transported, and stored in accordance with applicable policies and procedures of this department.
- G. **Seizure of Forfeitable Vehicles**
If there is probable cause to believe that the vehicle is forfeitable under federal or state law, no warrant is needed before seizing the vehicle from a public place. Once seized, vehicles may be inventoried under established departmental inventory policy.
- H. **Compliance with Health and Safety Requirements**
Searches of motor vehicles are to be conducted in strict compliance with all applicable laws, governmental regulations, and departmental policies and procedures pertaining to the protection of department personnel from communicable diseases and hazardous substances. Any exposure of search personnel or others to such substances shall be reported in accordance with regulations, policies, and procedures of this department.
- I. **Security of Vehicles and Property Contained Therein**
If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, search personnel shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.
- J. **Documenting Motor Vehicle Searches**
 1. If an officer searches a motor vehicle and the search NOT result in a criminal charge the officer must complete a report (Offense Report (OF)). The report must contain the date, time, location, and probable cause or reasonable suspicion that leads to the search. The report must also include the race, age and gender of the individual searched and the result of the search (RIGL 31-21.2-5(c)).
 2. Searches of motor vehicles resulting from a traffic stop shall be documented in the "Race" section of the citation entry in the Department's Records Management System (RMS).
- K. **Responsibility of Supervising Officer**
An officer supervising a vehicle search shall be responsible for ensuring that it is conducted in accordance with this policy. In the event that the vehicle search is conducted under a warrant, the officer shall ensure that the execution of the warrant is properly reported to the issuing court or other authority. The officer

shall also be responsible for making any other reports regarding the search that may be required by law, policy, or procedure.