


PINE BLUFF POLICE DEPARTMENT POLICY & PROCEDURES MANUAL

	SUBJECT:	POLICY NUMBER 352
	SEARCH: MOTOR VEHICLE	ISSUE DATE 02/19/2008
	CHAPTER: INVESTIGATIONS	EFFECTIVE DATE 02/19/2008
	ISSUED By: Chief of Police John E. Howell	TOTAL PAGES 5

I. POLICY

It is the policy of this 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.

II. 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.

III. PROCEDURE

- A. Whenever feasible, a warrant will be obtained for the search of a motor vehicle. Warrantless searches are to be conducted only when lack of time or other exigencies make it impractical for officers to obtain a warrant.

B. 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, the vehicle should be searched only after a warrant has been obtained, or the officer determines that some other exception to the warrant requirement is applicable. In other cases, vehicles may be searched:

1. When probable cause to search the vehicle exists;
2. With consent of the operator;
3. Incidental to an arrest of the occupants of the vehicle;
4. Search for weapons
5. When necessary to examine the vehicle identification number or to determine the ownership of the vehicle; or
6. Under emergency circumstances not stated above

C. SCOPE OF VEHICLE SEARCHES

1. **SEARCHES WITH A WARRANT.** When searching under a warrant, officers may search all areas of the vehicle unless the warrant states otherwise.
2. **PROBABLE CAUSE SEARCHES.** Officers may search a vehicle without warrants 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. 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.
3. **CONSENT SEARCHES.** The extent of the consent search depends upon the terms of consent itself. If the consent is limited to specific areas of the vehicle, officers may search only portions of the vehicle covered by the consent. Officers may search a vehicle with the oral or written consent of the person in apparent control of the vehicle or the owner of the vehicle. Written consent should be obtained whenever possible before conducting these searches. Officers shall not obtain consent by any form of coercion or duress.
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 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.

5. **SEARCHES INCIDENT TO ARREST.** Searches of vehicles incident to arrest of the operator or an occupant shall be limited to areas within reach of the arrestee (normally the passenger area of the vehicle). The trunk, the engine compartment and locked compartments within the passenger area may not be searched. (See policy 260 for impounded vehicle inventory).
6. **ENTRIES TO EXAMINE VEHICLE IDENTIFICATION NUMBER OR DETERMINE OWNERSHIP OF THE VEHICLE.** 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.
7. **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 listed 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.
8. **SEARCH OF CONTAINERS FOUND IN A VEHICLE.** If any otherwise-lawful search of a vehicle is being conducted, containers found in the vehicle may be opened and searched. In no instance shall a container in a motor vehicle be searched unless it could contain the item(s) being sought. In addition:

- a. **UNLOCKED CONTAINERS**

Unlocked containers found in motor vehicles are governed by the nature of the search, as follows:

- b. **PROBABLE CAUSE SEARCH**

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

c. INCIDENT TO ARREST

When the passenger compartment of a vehicle is being searched incident to an arrest, such containers found within the passenger compartment may be opened.

d. 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.

e. 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.

9. LOCKED CONTAINERS

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

- a. The search is being conducted under a warrant; or
- 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. Where these conditions are not met, locked containers should be secured by search personnel and opened only after a warrant has been obtained.

10. 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.

D. LOCATION AND TIME OF SEARCH

Whenever possible, search of a motor vehicle, and of 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 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.

E. CONDUCT OF THE SEARCH

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. When unavoidable, such damage should be confined to that reasonably necessary to carry out a safe and thorough search.

F. ABANDONED VEHICLES

If it is determined by an officer that a vehicle has been abandoned, the vehicle may be searched without a warrant .

G. 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. Where appropriate and feasible, itemized receipts for seized property shall be given to the owner and/or occupants of the vehicle.

H. 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.

I. 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.