

# GENERAL ORDER



DISTRICT OF COLUMBIA

<b>Title</b>		
<b>Vehicle Searches and Inventories</b>		
<b>Topic</b>	<b>Series</b>	<b>Number</b>
<b>SPT</b>	<b>602</b>	<b>01</b>
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GO-SPT-602.01 (Automobile Searches and Inventories), Effective Date May 26, 1972		
<b>Rescinds:</b>		
TB-10-01 (U.S. Supreme Court Decision: Search Incident to Arrest Exception, Arizona V. Gant), Issued February 25, 2010		

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## I. PURPOSE

The case law governing motor vehicle searches and inventories is one of the most complex legal areas affecting law enforcement; and one of the most important. Contacts with motorists are commonplace and vehicles are used to transport contraband and evidence of a crime. It is the policy of the Metropolitan Police Department (MPD) to conduct vehicle searches and inventories that are both legal and thorough. MPD seeks to safeguard and protect the contents of all vehicles that come into the custody of the Department while promoting public safety. The purpose of this policy is to establish procedures for determining the need for and conducting vehicle searches and inventories.

## II. PROCEDURES

### A. General Rules

1. Searches and inventories shall be conducted in strict observance of the constitutional rights of the owner and occupants of the motor vehicle and with due regard for the safety of all members, other persons, and property involved.
2. Members shall not conduct a vehicle inventory as a substitute for a search. Members shall refer to Part II.C. of this order for the legal authority and scope of an inventory.
3. When a person is arrested for a crime while in custody of a vehicle that is not needed as evidence, members shall ensure that the vehicle is released to a person authorized to take custody, secured and legally parked, or inventoried and towed for safekeeping according to the procedures outlined in GO-OPS-303.03 (Vehicle Towing and Impoundment).
4. When a person is arrested for a crime while in custody of a vehicle

that is impounded as evidence, members shall ensure that the vehicle is inventoried and towed in accordance with this order as well as GO-SPT-303.02 (Notices of Infraction Procedures), GO-SPT-303.03, GO-SPT-401.01 (Field Reporting System) and GO-SPT-601.01 (Recording, Handling, and Disposition of Property Coming into the Custody of the Department).

5. Members shall prepare a PD Form 81 (Property Record) and ensure that the Office of Unified Communications (OUC) is notified when a vehicle is impounded to report the new location of the vehicle.
6. Members shall seize items when there is probable cause to believe that such items are contraband or evidence of a crime.
7. Officers shall ensure that all vehicle stops and searches are properly documented according to the procedures set forth in GO-OPS-304.10 (Field Contacts, Stops, and Protective Pat Downs), GO-PCA-702.03 (Search Warrants), and GO-SPT-401.01.

#### B. Searches

1. Once a vehicle is stopped, ordinary rules of stop, arrest, and search apply.
2. Pursuant to *Michigan v. Long*, 463 U.S. 1032 (1983), a protective search of a vehicle's passenger compartment may be conducted during the stop of an occupant of the vehicle where there is reasonable articulable suspicion to believe the vehicle, or a container therein, might contain a weapon.
3. Members who have legally stopped a vehicle and who have probable cause to believe that contraband is concealed somewhere within it may lawfully conduct a warrantless search that is as thorough as one that a magistrate could authorize by a warrant [*United States v. Ross*, 456 U.S. 798 (1982)]. If, during a lawful warrantless search, items that are immediately apparent to be evidence or contraband are discovered, the items may be seized, even if they are unconnected to the evidence or contraband that served as the original justification of the search [*Horton v. California*, 496 U.S. 128 (1990)].
4. Members may legally search any area of a vehicle when there is probable cause to believe that the vehicle contains contraband or evidence of a crime [*Carroll v. U.S.*, 267 U.S. 132 (1925)]. This includes containers wherever found in the vehicle, provided that they could contain the items for which the search is being conducted [*New York v. Belton*, 453 U.S. 454 (1981)].
5. Members with probable cause to believe that evidence or contraband in a moveable (e.g., operable) vehicle that is parked in public space may conduct a warrantless search of any part of the vehicle that could reasonably contain the object of the search.

- a. If a vehicle does not appear to be movable and there is adequate time in which to obtain a search warrant, members shall notify an official and obtain a warrant prior to entering the vehicle.
  - b. If a vehicle is not in a publicly accessed vehicular area, and then when circumstances do not justify immediate warrantless action, a search warrant is required.
  - c. If the vehicle is locked, members shall obtain approval from an official prior to entering the vehicle.
6. If a custodial arrest is made of a recent occupant of a motor vehicle and the member has a reasonable articulable suspicion that the vehicle contains contraband or evidence of the crime for which the person was arrested, the vehicle may be lawfully searched [*Arizona v. Gant*, 556 U.S. 332 (2009)].
7. Members may legally search the passenger compartment of a vehicle incident to an arrest of a recent occupant when 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 for which the person was arrested [*Arizona v. Gant*, 556 U.S. 332 (2009)].
- a. The search may legally include the glove compartment and spaces under the seats.
  - b. The search may legally include locked or unlocked containers that could conceal the object of the search [*California v. Acevedo*, 500 U.S. 565 (1991)].
  - c. The search does not legally include the vehicle's trunk unless the trunk is immediately accessible to the arrestee (e.g., through a rear seat fold down) [*Chimel v. California*, 395 U.S. 752 (1969)].
9. When a member arrests a recent occupant of a vehicle and he or she has a reasonable articulable suspicion that the vehicle contains evidence of the crime for which the arrest was made; only those areas of the passenger compartment of the vehicle which could physically contain that evidence shall be searched [*New York v. Belton*, 453 U.S. 454 (1981)]. This kind of search does not extend to the trunk of the vehicle. Arrestees shall be searched prior to the vehicle search.
10. Pursuant to *Carroll v. U.S.*, 267 U.S. 132 (1925) [reaffirmed by *California v. Carney*, 471 U.S. 386 (1985), *U.S. v. Johns*, 469 U.S. 478 (1985)], a vehicle lawfully in police custody may be searched on the basis of probable cause to believe that it contains evidence or contraband, and there is no requirement of exigent circumstances to justify a warrantless search.
11. Members shall conduct a vehicle search as soon as reasonably possible which is ordinarily at the scene of the stop or arrest.

- a. Under exigent circumstances, search of the vehicle may be delayed or conducted after the vehicle has been moved to a safer location in the immediate vicinity. However, in all instances members shall conduct searches as soon as reasonably possible.
- b. In cases where the search is conducted at an alternate location, a member shall remain with the vehicle to ensure a continuous chain of custody prior to the search.
- c. It is not necessary for members to keep the arrestee near the vehicle during a search.

## 12. Search Warrants

- a. When probable cause to arrest exists, a search warrant for any relevant vehicle shall also be obtained, when applicable. Seeking a search warrant for a vehicle is not contingent upon a lawful arrest but rather dependent upon probable cause for the vehicle itself.
- b. In cases where the search is not completed at the scene of the arrest and the vehicle is removed to a police facility or other area, members shall execute a search warrant as soon as possible.

## 13. Consent Searches

- a. The required justification for a consent search of a motor vehicle is voluntary permission to conduct the search from the apparent owner or person in control of the vehicle [*Florida v. Bostick*, 501 U.S. 429 (1991)].
- b. Members shall document, in writing, the subject's consent on a PD Form 781 (Consent to Search) or in the member's field notebook. When practicable, there shall be at least one body worn camera (BWC)-equipped member present with his or her BWC activated prior to conducting a consent search. Both the consent and the search shall be documented by the BWC-equipped member.
- c. The consenting individual may limit his or her consent to certain areas and may withdraw consent at any time. If consent is withheld or withdrawn, no warrantless search may be conducted unless it can be justified based upon exceptions to the search warrant requirement.
- d. The scope of the consent search is anywhere in the vehicle that could reasonably be thought to be within consent [*Florida v. Jimeno*, 500 U.S. 248 (1991)].
- e. Containers within the vehicle may be searched if it is reasonable

to believe that the container is within the bounds of the consent [*Florida v. Jimeno*, 500 U.S. 248 (1991)].

### C. Inventories

1. Members shall conduct a vehicle inventory of the contents of all motor vehicles that are lawfully seized or impounded by a member pursuant to the arrest of the driver according to the provisions set forth in GO-SPT-303.03 or impounded for violations or safety purposes pursuant to D.C. Official Code § 50-2201.05.
2. The purpose of an inventory search is not to discover contraband or evidence of criminal activity. Warrantless vehicle inventories are legally permissible for lawfully impounded motor vehicles [*South Dakota v. Opperman*, 428 U.S. 364 (1976)].
3. Members shall ask the owner or operator of the vehicle to identify all valuables he or she wishes removed from the vehicle prior to impoundment, when applicable. Members shall, when applicable, log items as prisoner property and handle the property in accordance with GO-SPT-601.01.
4. Members shall conduct an inventory as soon as reasonably possible following impoundment which is usually at the location where the vehicle is seized unless limited by reasons of safety or practicality.
  - a. In cases where an inventory is conducted at a later time or alternate location, a member shall remain with the vehicle to ensure a continuous chain of custody prior to the inventory.
5. Members shall conduct an inventory in all areas of the vehicle in which personal property or hazardous materials may reasonably be found, including but not limited to the passenger compartment, the trunk, whether or not locked (if a key is available or if it can be opened without breakage), and the glove compartment, whether or not locked (if a key is available or if it can be opened without breakage).
6. Members shall open all closed containers found within the vehicle for the purposes of the inventory. Closed and locked containers shall not be forced open but shall be logged as closed on the PD Form 81. Locked containers shall be opened and inventoried if they can be opened without breakage.
7. If, during a lawful vehicle inventory, items that are immediately apparent to be evidence or contraband are discovered, the items may be seized, even if they are unconnected to the original justification of the inventory [*Horton v. California*, 496 U.S. 128 (1990)]. Members shall seize items that are contraband or evidence of a crime.

### D. Property Control

1. Members shall itemize all items of value on a PD Form 81 and remove

from the passenger compartment of the vehicle any items of value which can easily be seen from outside of the vehicle.

2. Members shall follow the procedures in GO-SPT-601.01 for any property removed from the vehicle. After removing such property, if any, the member shall make sure that the windows are closed and, if possible, that the doors and trunk are locked.

E. Vehicle Release

1. Members shall not release a vehicle seized as evidence until the appropriate prosecutor has signed the PD Form 81C (Property Release) indicating that the vehicle is no longer needed as evidence.
2. In cases where a prosecutor is unavailable and application of this rule would result in hardship to an innocent party, a member may obtain verbal authorization from an Assistant United States Attorney to release the vehicle. Members shall document the verbal authorization on a PD Form 82 (Property Book).

### III. DEFINITIONS

When used in this directive, the following terms shall have the meanings designated.

	Term	Definition
1.	Consent search	Search conducted based upon valid consent of the individual whose person or property is being searched. The Fourth Amendment requires that consent to a search not be coerced, by explicit or implicit means, by implied threat, or covert force.
2.	Impoundment	Taking of a vehicle into custody by District government for reasons including, but not limited to, safekeeping, forfeiture, evidence, or as a penalty.
3.	Probable cause vehicle search	Warrantless vehicle search based upon probable cause to believe that contraband is in a moveable (i.e., operable) vehicle in a public area (e.g., public space, place commonly used for vehicular movement, shopping center, parking lot). This includes any closed container, locked or unlocked, that could conceal the item to be seized. Pursuant to <i>Carroll v. U.S.</i> 267 U.S. 132 (1925) there is no requirement of exigent circumstances to justify a warrantless search. Once established, authority to search the vehicle remains even if a suspect is removed from the vehicle and kept nearby.
4.	Protective vehicle search	Limited protective search of the passenger compartment of a lawfully stopped vehicle for concealed weapons or dangerous instruments. Pursuant to <i>Michigan v. Long</i> , 463 U.S. 1032 (1983), a cursory vehicle search, also known as a vehicle frisk, is limited to places in the interior passenger compartment in which a quickly accessible weapon could be placed or hidden. A closed container found in the passenger compartment may be opened and

		checked for weapons as long as the contents of the container are immediately accessible to vehicle occupants (i.e., the container opened quickly without breakage).
5.	Search of a vehicle incident to arrest	Limited warrantless search of a vehicle in lawful police custody on the basis of probable cause to believe that it contains evidence or contraband. Pursuant to <i>Arizona v. Gant</i> , 556 U.S. 332 (2009), officers must demonstrate an actual and continuing threat to their safety posed by an arrestee, or a need to preserve evidence related to the crime of arrest from tampering by the arrestee, in order to justify a warrantless vehicular search incident to arrest conducted after the vehicle's recent occupants have been arrested and secured. Officers may conduct a warrantless search of only the area that provides probable cause (including the trunk) and there is no distinction among containers and packages based on ownership (including a passenger's belongings capable of concealing contraband).
6.	Vehicle inventory	Administrative process by which items are removed from a motor vehicle, documented, and secured. A vehicle inventory is not a search.



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