

I. PURPOSE

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

II. POLICY

It is the policy of this agency 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 deputies, 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, deputies 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, deputies 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

Deputies 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, deputies shall search the vehicle only after a warrant has been obtained or the deputies 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. Deputies 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

Deputies 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. Deputies 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, deputies may search only the portions of the vehicles covered by the consent (CCSO SO-167).

c. Incident to an Arrest

Deputies 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 it 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, deputies 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 deputies determine the vehicle identification number or ownership of a vehicle, and such information cannot be acquired from the exterior of the vehicle, deputies 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

Deputies 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. Deputies have probable cause to search the vehicle, and the belonging in question is capable of concealing the item or items being searched for.
- b. Deputies 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 deputies, 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, deputies 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 agency. Where appropriate and feasible, itemized receipts for seized property shall be given to the owner and/or occupants of the vehicle.

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 must be inventoried under established agency 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 agency policies and procedures pertaining to the protection of agency 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 agency.

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. Responsibility of Supervising Deputy

A deputy 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 deputy shall ensure that the execution of the warrant is properly reported to the issuing court or other authority. The deputy shall also be responsible for making any other reports regarding the search that may be required by law, policy, or procedure.

All Deputies making requests to conduct vehicle searches, conducting vehicle canine scans, and conducting probable cause vehicle searches will do so in accordance with Cecil County Sheriff's Office policy, procedures, rules and regulations, State Law, and the Constitution of the United States and will document such events with an Incident Report, Consent to Search and Seize, CCSO Form SO-167, K-9 Report (Chapter 10), and/or on the Data Collection Sticker.

1. When a traffic stop or situation involving a vehicle progresses to the point where the circumstances support a Deputy requesting consent to search a vehicle, conducting a canine vehicle scan, or conducting a vehicle search based on probable cause, the Deputy will immediately notify the Shift Supervisor and request that a Event Number be opened.
2. The Event Number will be opened at the time of the initial request and will not be closed until the individuals are released or arrested.
3. The Consent to Search Form and/or Data Collection Sticker will be completed by the Deputy making the traffic stop. The K-9 policy under Chapter 10 will be followed when a canine is utilized.
4. The Data Collection Sticker will be attached to hand written citation, SERO, warning, and submitted for processing to the Sheriff's designee.