

## SCRANTON POLICE DEPARTMENT POLICY

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**09-008**

*Policy Subject:*  
**Search and Seizure**

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*PLEAC Standard(s):*  
**1.2.2, 1.2.3, 1.2.4, 2.5.1**

### **I. PURPOSE**

The purpose of this policy is to establish procedures for search and seizure without a warrant within the framework of legal requirements and constitutional decisions.

### **II. POLICY**

It is the policy of the Scranton Police Department to adhere to all legal requirements, constitutional decisions, and applicable case law when dealing with search and seizure without a warrant. The courts are constantly modifying these legal procedures, and it is the responsibility of the Department to make updated information available to Departmental personnel.

### **III. PROCEDURE**

#### **A. Search by consent**

Officers shall consider the following procedures when initiating searches by consent:

1. Voluntariness of consent – Consent to search must be voluntarily given and not the result of duress or coercion, express or implied. Voluntariness is a question of fact to be determined from all the circumstances. Officers shall ensure that consent searches are in fact voluntary and that consent has been freely given prior to initiating any such search.
2. Authority to Consent – In order for consent to be valid, it must be given by one possessing control over the area searched.
3. Scope – A person has a right to limit the scope of a consent search.

## B. Stop and/or frisk of an individual

Officers shall consider the following when initiating a stop and frisk:

1. Investigative Stop
  - a. Investigative stops by officers shall be supported by reasonable suspicion. If a report is required, the officer shall articulate his/her reasons for the stop in that report.
  - b. An officer who lacks probable cause but whose observations lead him/her to reasonably suspect that a particular person has committed, is committing, or is about to commit a crime, may detain the person briefly in order to investigate the circumstances that provoked suspicion. The reasonable suspicion for the stop shall be based on the officer's personal observation and/or information supplied by another person.
  - c. Officers will diligently pursue a means of investigation that is likely to confirm or dispel his/her suspicions quickly when detaining a suspect.
2. Cursory searches under circumstances where the officer has legally articulable reasons to fear for his/her safety.
  - a. "Terry Stop"

Officers may conduct a limited search for weapons if they observe unusual and suspicious conduct on the part of an individual that leads them to believe that there is criminal activity afoot and that the person is armed and dangerous.
  - b. Handcuffs
    - 1) Officers conducting "Terry" searches shall consider controlling and securing the subject(s) with handcuffs first, prior to initiating a search under the "Terry" criteria.
    - 2) Officers shall advise any person handcuffed for a "Terry" search that they are being handcuffed for officer safety, that they are not under arrest, and that the handcuffs will be removed when officer safety is ensured.
3. Vehicle Extension
  - a. "Terry" frisks can extend to the passenger compartment of a vehicle, and officers may conduct a limited "pat down" for weapons, if the officer reasonably believes that a suspect, who was lawfully stopped, can gain access to a weapon.
  - b. Officers shall not search, without probable cause, the passenger compartment of a vehicle if the driver/occupant(s) have been removed by arrest and are not free to gain access to the compartment.
  - c. Plain feel doctrine – Officers conducting cursory frisks may seize an object when it becomes immediately apparent, with knowledge

gleaned from the officer's sense of touch, that probable cause exists to believe the object is seizable.

C. Search of a vehicle under a moveable vehicle exception

1. Officers shall consider the following procedures when initiating a search of a vehicle under a movable vehicle exception. Vehicles, lawfully stopped spontaneously on a highway, may often be searched without a warrant under Pennsylvania law by:
  - a. Consent – Officers may search a vehicle upon the knowing and voluntary consent of the owner or operator.
  - b. Plain View – An officer who is where he/she is allowed to be and looking where he/she is allowed to look may seize items which are obviously contraband.
  - c. Stop – When an officer can articulate facts which lead him to a reasonable belief that an occupant may be armed and dangerous, the officer may search the passenger compartment for weapons (that is, where a weapon might reasonably be found) provided the driver and/or occupants have not been removed and restricted from further access to the compartment.
  - d. Exigent circumstances – Officers who have probable cause to search a vehicle which is inherently mobile and with prior approval from the Lackawanna County District Attorney's Office may search the vehicle without first obtaining a search warrant.
2. When ample advance information is available that a search of a vehicle is likely to occur in conjunction with the apprehension of a suspect, officers shall secure a search warrant before the vehicle may be searched.

D. Search at the scene of a crime

Officers shall consider the following procedures when initiating a search at the scene of a crime:

1. Officers may conduct a warrantless entry of residences under the following conditions:
  - a. Consent by the tenant or owner.
  - b. Probable cause to believe:
    - 1) Someone in the premises is armed and dangerous.
    - 2) Someone's life or personal safety is in danger.
    - 3) A serious crime is being committed in the officer's presence and there is a likelihood the offender would escape if time is taken to get a warrant or that evidence of a crime would be destroyed.
2. Officers shall secure a search warrant in all cases where circumstances do not provide for exceptions to the warrant rule.

E. Search incident to arrest

When a person has been arrested based upon a warrant, probable cause or other legal authority, a search incident to that arrest may be made in accordance with the following:

1. Person – The clothing worn by the offender and any bags or packages he/she may be in possession of at the time and place of arrest. Multiple searches of the person are permitted under this exception as custody is passed from officer to officer or facility to facility.
2. Home – A protective sweep of the area of arrest including places where someone could be hiding that would present a safety risk to officers affecting the arrest.
3. Vehicle – A cursory search under the vehicle seats, or within the area of the interior where the person could reach and retrieve a weapon, when the person was arrested from a vehicle and the vehicle involved has not been fully secured.

F. The Scranton Police Department does not conduct inventory searches of seized vehicles.

G. Scranton Police Officers will adhere to all Commonwealth and Federal constitutional provisions, statutory and case law provisions in the course of searches and seizures.

By Order Of:

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Chief Carl R. Graziano  
Superintendent of Police  
Scranton Police Department