



BETHLEHEM POLICE DEPARTMENT

Motor Vehicles Stops/Searches/Inventory	Related Policies: Biased-Based Policing
<p><i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only for the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i></p>	
Applicable New Hampshire Statutes: New Hampshire Constitution 1 st Part Article 19	
CALEA Standard: 1.2.4	
Date Implemented: 2010	Review / Revised Date: 02/10/2012

I. Purpose: The purpose of this policy is to direct officers in their contacts with motor vehicles.

II. Policy: The policy of this department is to protect and serve the constitutional rights of all citizens when conducting vehicle stops, searches and inventories while balancing the needs of law enforcement in solving crimes for the protection of the community.

III. Definitions:

- A. Motor Vehicle:** Any motorized vehicle that is capable of movement to include motor homes.
- B. Probable Cause:** (search): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that evidence of crime exists and that the evidence exists at the place to be searched.
- C. Probable Cause:** (arrest): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that a crime has been or is being committed and the person to be arrested is the one who is or has committed the crime.
- D. Reasonable Suspicion** (temporarily detain): Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts that would lead a reasonable law enforcement officer to believe that criminal activity is afoot.
- E. Reasonable Suspicion** (frisk): Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts that would lead a reasonable law enforcement officer to believe that a person who is lawfully stopped is in possession of a weapon.
- F. Frisk** (weapon): A limited type of search, the limit being to those areas capable of holding a weapon and located within the subject's immediate area of control.



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G. Motor Vehicle Stop: Motor vehicle stop means any stop of a motor vehicle, except for a stop of a motor truck, truck-tractor, semi-trailer, trailer, or towed vehicle at a state weighing station.

H. GPS (Global Positioning System) as used on this policy such device would include any mechanism either built-into or attached to the vehicle which allows a member of this agency to obtain data relating to the vehicle's location.

IV. Procedures:

A. Vehicle Stops- Vehicles may be lawfully stopped under the following circumstances:

1. Reasonable Suspicion Based Stop-where an officer has articulated facts that support a belief that criminal activity is occurring and that a vehicle is involved the officer may stop the vehicle to investigate further. The stop may continue as long as the officer diligently investigates to confirm or dispel his or her suspicion that criminal activity is occurring and the occupant(s) of the vehicle are involved.
2. Probable Cause based Stopped-Traffic Violation-where an officer has probable cause to believe that a violation of the motor vehicle code has occurred may stop the vehicle and detain the vehicle for a reasonable amount of time while the citation is completed.
3. Probable Cause Based Stop-Arrest/Search-where an officer has probable cause to believe that a person in a vehicle has committed a crime or probable cause to believe that a vehicle contains evidence of a crime or contraband, the officer may stop the vehicle to arrest the occupant (in the arrest situation) or stop the motor vehicle to search the vehicle in the search scenario.
4. Consensual Contact-An officer may approach any stopped vehicle (a vehicle which is stopped by the operator's own volition prior to police contact) and attempt to speak to person(s) in the vehicle. The officer has no power to force compliance with his or her attempt to contact in the consent situation.
5. Emergency Aid exception: An officer may stop a vehicle where he or she has objectively reasonable grounds to believe that there is an emergency at hand and an immediate need for the officer's assistance for the protection of life or property;
 - i. There is an objectively reasonable basis approximating probable cause to associate the emergency with the vehicle to be stopped;
 - ii. The stop is not primarily motivated by intent to arrest or seize evidence but rather is to protect individuals in the vehicle from danger.

B. Ordering Persons From a Vehicle: An officer may order any occupant of a lawfully stopped vehicle to exit the vehicle during a lawful stop.



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- C. Frisk of a Vehicle:** An officer who has reasonable suspicion to believe that a lawfully stopped vehicle contains a weapon may search the vehicle subject to the following limitations:
1. The search is limited to subject's immediate area of control which would be the passenger compartment of the vehicle.
 2. The search is limited to those areas in the passenger compartment capable of holding a weapon.
- D. Search Incident to Arrest (Vehicle):** Following the lawful arrest of a subject from a vehicle or who had exited the vehicle just prior to arrest, officers may search the vehicle incident to arrest subject to the following limitations:
1. The arrest must be lawful and must be a full-custodial arrest.
 2. The search must take place at the time of the arrest.
 3. A search incident to arrest may not take place once the arrestee is secured in handcuffs and secured in a law enforcement vehicle unless the officer has reasonable grounds to believe that the vehicle contains evidence of the particular crime for which the subject was arrested.
 4. The search incident to arrest is limited to the arrestee's immediate area of control (passenger compartment only) but is a thorough search.
 5. Unlocked containers within the vehicle may be searched irrespective of who the containers belong to.
 6. The other occupants may not be frisked or searched simply because another person in the vehicle has been arrested.
- E. Consent Search of Vehicle:** An officer may ask the person in control of any lawfully stopped vehicle or a vehicle that is not moving at the time of a consensual contact for consent to search the vehicle. Consent searches are subject to the following limitations:
1. The Consent must be voluntary
 2. Written consent is not required under federal law; however written authorization or a mobile video recording that documents consent will assist in proving the voluntary nature of the consent.
 3. The scope of the search is within the control of the person granting consent, thus, the consenting party can direct the area which an officer is allowed to search as well as how long the search may last.
 4. Under the rules of consent there is no requirement that officers inform a person of their right to refuse the officer's request, however a person who is told of their ability to refuse will be less likely to make out a claim that their consent was not voluntary.



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5. Officers may not prolong a stop beyond its original justification in order to obtain consent.

F. Drug Sniffing Canine: Where officers have a lawfully stopped vehicle based upon reasonable suspicion to believe there are narcotics in the vehicle, they may utilize a drug-detection canine to sniff the exterior of the vehicle as long as the sniff occurs within the duration from a time standpoint of the purpose that justified the stop to begin with.

1. If the stop must be prolonged beyond its justification to wait for the canine to arrive, the vehicle must be released and the canine cancelled.
2. It is recognized that an officer may develop reasonable suspicion of possession of narcotics during the initial stop which would then justify prolonging the stop for the canine's arrival.
3. If the canine conducts a sniff in accordance with this policy and alerts on the vehicle, the officer has probable cause and may obtain a warrant to search the vehicle.
4. Putting a canine inside a vehicle is a search for 4th Amendment purposes and must not be done unless the officer can support the search by probable cause to believe the vehicle contains contraband and a warrant has been obtained.

G. Use of GPS: Prior to installing GPS or obtaining data from a factory installed GPS system to obtain data related to a citizen's location, a search warrant shall be obtained for the installation and/or retrieval of data unless there are articulable exigent circumstances which would justify the immediate installation or retrieval of data i.e. kidnapping suspect vehicle.

H. Vehicle Inventory: A vehicle inventory is not a search for evidence or contraband and is not a search with an investigative purpose. The primary objective of the inventory is to protect the property of persons whose vehicles are towed at the direction of law enforcement. These inventories also have the objective of protecting law enforcement from false claims with respect to vehicles that are towed at the direction of law enforcement. Vehicle inventories are subject to the following limitations.

1. All vehicles towed at the direction of an officer of this agency, irrespective of the reason for the tow, shall be inventoried in accordance with this policy.
2. An inventory of a vehicle may include all areas of the passenger compartment, glove compartment, trunk, and any open or closed containers therein. Locked containers for which keys are available may be opened in the officer's discretion in order to achieve the purpose of the inventory. Locked areas of a non-abandoned or an abandoned vehicle for which keys are not available should not be inventoried.
3. Officers will note in their report any items of value that are within the vehicle. A vehicle inventory form may be used.
4. If an item of extreme value is located within the vehicle and is removable, the officer shall take the item for safekeeping and either turn the item over to the owner or, when that is not



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possible, take the item to the department to be held for safekeeping in accordance with the provisions of the property and evidence policy.

5. If items in plain view are inadvertently discovered during an inventory, and the incriminating nature of these items is immediately apparent, they shall be seized. If probable cause develops during an inventory, the inventory shall cease and the officer shall apply for a search warrant.
 6. Although a vehicle inventory should ideally be as close in time and place as possible to the incident which led to the inventory, the courts have upheld inventory of the motor vehicle conducted after the vehicle was towed and prior to its release. *MICHIGAN V. THOMAS* 458 US 259 (1982)
- I. Community Caretaking Search:** Where officers have reason to suspect that a vehicle contains a dangerous item, which, if left unattended will endanger public safety, the officer may search the vehicle to remove the dangerous item for safekeeping. An officer removing such an item should protect the owner's property interest by ensuring that the item is stored in accordance with department procedures relating to property and evidence.