

DALTON POLICE DEPARTMENT

		Effective Date January 27, 2004	Number GO04-4.6
Subject Search of Motor Vehicles			
Reference CALEA Standard – 1.2.4		Revised February 26, 2019 23, 2021	
Distribution All Personnel	Re-evaluation Date February 2021 2023		No. Pages 4

I. Policy

The **policy of the** Dalton Police Department ~~will is to~~ only conduct searches that are legal, ~~and~~ thorough, **and with regard for the safety of Officers, other persons, and the property involved**, while strictly observing the constitutional rights of drivers and other occupants. ~~Searches will only be conducted with due regard for the safety of Officers, other persons, and the property involved.~~

II. Procedures

A. Officer Safety

1. Officers ~~will~~ **shall** not search vehicles alone. At least two (2) Officers ~~will~~ **shall** be present in order to allow one (1) Officer to search and one (1) Officer to monitor vehicle occupants.
2. Officers may make all occupants exit the vehicle while interviewing or searching in order to protect their safety.

B. General Provisions for Vehicle Searches

1. ~~There are three conditions under which law enforcement Officers may search a motor vehicle. These conditions are warrant, warrantless, and consent searches.~~ Officers may conduct searches of motor vehicles with a warrant, with probable cause, or with valid consent.
2. When conducting a vehicle search, Officers ~~of the Dalton Police Department will~~ **shall**:
 - ~~a.1.~~ Obtain a search warrant, if feasible. If a warrant is used then all search warrant guidelines shall be ~~used~~ **followed**.
 - ~~b.2.~~ Request **consent from the vehicle** owner or operator ~~consent~~, if feasible.

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- ~~c.3.~~ Avoid vehicle damage, unless reasonably necessary to carry out a safe and thorough search.
- ~~d.4.~~ Search all areas of the vehicle, unless specified otherwise in the warrant or in the consent.
- ~~e.5.~~ With the exception of the items seized, leave the vehicle and its contents in the same condition as found.

C. ~~Warrant~~ Searches with a Warrant

- 1. ~~Upon probable cause,~~ If time permits, Officers ~~will~~ shall seek a search warrant, based upon probable cause, prior to conducting searches ~~execute searches~~ of all motor vehicles, including cars, trucks, buses, boats, and airplanes. ~~by means of a duly authorized search warrant.~~
- 2. The search warrant ~~will~~ shall be approved by a Supervisor prior to ~~obtaining a~~ it being presented to a judge for his / her signature.
- 3. In most cases, the motor vehicle should be towed to a secure location, such as the impound lot at the Police Services Center, to await the service of the search warrant. Vehicles stored in the impound lot shall be entered into Property and Evidence in accordance with policy GO88-4.10, Property and Evidence Policy and Procedure.

D. ~~Warrantless~~ Searches Based upon Probable Cause

- 1. If probable cause of criminal activity exists, Officers may enter a motor vehicle without a warrant or consent in order to specifically:
 - ~~a.1.~~ Examine a vehicle identification number or determine ownership of a vehicle
 - ~~b.2.~~ Remove a person from a vehicle in an emergency situation
 - ~~c.3.~~ Seize evidence or contraband that is in plain view
- ~~2.4.~~ Exigent circumstances.
 - a. The “automobile exception” to the warrant requirement demonstrates a willingness of courts to excuse the absence of a warrant when searches are required of a vehicle. To conduct a warrantless search, the Officer must have probable cause to believe the vehicle contains contraband or other ~~seizeable~~ items that may be seized and that the vehicle may be moved and the evidence or contraband will be lost if Officers take time to obtain a warrant.
 - b. A warrant is needed to search a vehicle that the Officer can legally control without fear of it being removed.

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~~3.5.~~ Search of vehicle incident to a lawful arrest

- a. Officers may search the passenger compartment following the arrest of a recent occupant when it is reasonable to believe that evidence relevant to the crime ~~of~~ for which the arrest was made might be found in the vehicle.
- b. Officers are also authorized to search the passenger compartment of a vehicle if the arrestee is unsecured and is within reach of the passenger compartment of the vehicle.
- c. Officers ~~will~~ shall not abuse ~~warrantless~~ probable cause searches and ~~will~~ shall ask permission of owners or operators before conducting a warrantless entry or search, if possible.

E. ~~Consent~~ Searches with Consent

1. Officers may conduct ~~warrantless~~ searches with or without probable cause after obtaining consent from the vehicle owner or operator.
2. The extent of a consent search may be limited to specific areas of a vehicle, depending on the terms of the consent. A person granting consent to search may limit the scope of the search or may withdraw consent at any time. This is a constitutional right of the individual.
- ~~3.2.~~ Officers conducting consent searches ~~should~~ shall make every effort to ensure the person giving consent has the legal standing to do so.
4. ~~Also,~~ Officers shall request written consent prior to any search being made. Officers shall complete the Consent Search Warning Waiver (see Appendix A) and request the person giving consent sign the waiver.
5. If contraband or other items of evidentiary value are located during the search, the Consent Search Warning Waiver shall be submitted to the Property and Evidence Section. Otherwise, the waiver shall be submitted to the Records Section.
- ~~6.1.~~ Officers searching without a warrant ~~must~~ shall include in the incident report the reasons (probable cause or other) that led to that decision. ~~and complete the Consent Search Warning waiver (see Appendix A).~~

F. Location of Vehicle Searches

1. Officers ~~of the Dalton Police Department~~ must use their discretion regarding the location of warrantless searches in order to protect ~~Officers themselves~~, the vehicle occupants, members of the general public, and potential evidence.
2. Vehicle searches may be conducted:

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- a.1. On a public way or waters or other area open to the public
- b.2. In a private area unlawfully entered by the vehicle
- c.3. In a private area lawfully entered by the vehicle

G. Search of Containers Found in a Vehicle

1. Containers may be searched ~~under~~ with a warrant, with probable cause, or with consent if:
 - a. Found within the vehicle passenger compartment
 - b. Discarded from the vehicle
2. An inventory of containers ~~will~~ shall be conducted after lawful, custodial arrests.
3. Locked containers, such as attaché cases, suitcases, and footlockers, may be opened with a warrant, probable cause, or with consent of the owner.
4. Containers should be searched at the location where the vehicle was discovered or detained if safe to do so.

This policy supersedes any policies previously issued.

BY ORDER OF

CHIEF OF POLICE

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APPENDIX A

CONSENT SEARCH WARNING

I would like your permission to search your* _____
but I hereby advise you that:

1. You have the right to refuse to allow me to search your * _____
2. Any evidence of criminal conduct that I find will be used against you in a court of law.

WAIVER

1. Do you understand each of these rights I have explained to you?
2. Understanding these rights, are you willing to allow me to search your
* _____?

Time: _____ Signature _____

Date: _____ Officer Advising Rights _____

*(insert car, house, person, etc., as applicable)

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