

**PURPOSE:** The purpose of this policy is to provide departmental personnel with guidelines for the search of motor vehicles.

**POLICY:** It is the policy of this department 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 officers, other persons and property involved.

**DEFINITIONS:**

**Motor Vehicle:** 625 ILCS 5/1-146: Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs.

**Search:** An examination of all or a portion of the vehicle for investigative purposes and/or for the purpose of locating and recovering evidence or contraband. Inventories of personal property conducted pursuant to seizure or impoundment of the vehicle are covered in Policy 406.1.

**PROCEDURES:**

**A. When Vehicle Searches May Be Conducted :**

1. Whenever feasible or required by law, a warrant will be obtained for the search of a motor vehicle.
2. Warrantless searches of vehicles are to be conducted only when:
  - a. Lack of time or other exigencies make it impractical for officers to obtain a warrant, such as on a traffic stop, when probable cause that the vehicle contains contraband exists.
  - b. With consent of the operator;
  - c. Incident to an arrest of an occupant of the vehicle;
  - d. Necessary to frisk for weapons;
  - e. Necessary to examine the vehicle identification number or to otherwise determine the ownership of the vehicle;
  - f. The vehicle is abandoned;
  - g. Under emergency circumstances not otherwise enumerated above;
  - h. Otherwise determined to be another valid mobile vehicle exception or other authorized situation.

**B. Scope of Vehicle Searches :**

1. **Searches with a warrant :** When searching under a warrant, officers may search all areas of the vehicle unless the warrant states otherwise.
2. **Plain view:** An officer may seize contraband and suspicious items in plain view inside the passenger compartment.
3. **Probable cause searches :** When probable cause that the vehicle contains contraband exists, and lack of time or other exigencies make it impractical to obtain a warrant, 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. In vehicles, the discernable odor of illicit drugs from within the vehicle or drug contraband observed in the vehicle establishes probable cause.
4. **Consent searches :** The extent of a consent search depends upon the terms of the consent itself. If the consent is limited to specific areas of the vehicle,

officers may search only portions of the vehicle covered by the consent. Written consent should be obtained whenever possible before conducting these searches. Consent must be clear, voluntary, and can be withdrawn at any time.

5. **Searches incident to arrest:** Searches of vehicles incident to the arrest of an occupant shall be limited to areas within reach of the arrestee (normally the passenger area of the vehicle). Searches incident to arrest should be performed by, or under the direction of, the arresting officer or officers. The trunk and engine compartment may not be searched, unless accessible from and within reach of the passenger compartment. Such search should be conducted as soon as practically possible following the arrest of any occupant and while the occupant is present at the scene.
6. **Frisks for weapons:** Based on articulable facts warranting a reasonable belief that weapons may be present, a Terry-type protective search of those portions of the passenger compartment in which a weapon could be placed or hidden can be searched. Frisks for weapons normally must be confined to the passenger area of the vehicle. Areas not immediately accessible to the vehicle's occupants may not be frisked.
7. **Entries to examine a vehicle identification number or to determine ownership of the vehicle:** 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.
8. **Crime scene:** If the vehicle itself is considered a crime scene, it shall be secured, impounded, and inventoried. A search warrant must be obtained for any searches other than for inventory purposes or other lawful exceptions. See Policy 406.1, Motor Vehicle Inventories.
9. **Emergencies:** Search of a motor vehicle under emergency circumstances not otherwise 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. For example, a vehicle may be searched when there is reasonable suspicion that it contains an explosive device or other item that is intended to be used to endanger public safety. 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.
10. **Other provisions:** Case law can alter the legality or extent of search and seizure. Motor vehicle searches must be conducted as authorized by state and federal provisions.

**For additional department policy on search & seizure, see Policy 402.14.**

- C. **Search of Containers Found in Vehicle:** In no instance shall a container in a motor vehicle be searched unless it could contain the item(s) being sought in a warrant and/or an item of evidentiary value or contraband. In addition, containers in vehicles are governed by the nature of the search, as follows:
  1. In a probable cause search, any containers, regardless of ownership, whether locked or unlocked, or wherever found in the vehicle, may be opened, including the glove box.
  2. Incident to an arrest of a vehicle occupant if there is the possibility that a container could include related evidence to the arrest, any containers found

only within the passenger compartment may be searched as described above.

3. 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.
  4. Containers found in or discarded from a vehicle under circumstances that do not justify their search under probable cause rules, in connection with a search incident to arrest, or other emergency exigent circumstance should be secured but not searched until a warrant is obtained to search them.
- D. **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 officers, citizens and property concerned.
- E. **Conduct of the Search:** 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.
- F. **Abandoned Vehicles :** There is no expectation of privacy in abandoned property, including vehicles. Abandoned vehicles are subject to search under this policy and/or the department's Motor Vehicle Inventory Policy upon impoundment. See Policy 403.7, Abandoned Vehicles, and Policy 406.1, Motor Vehicle Inventories.
- G. **Seizure of Evidence:** 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 department. Where appropriate and feasible, itemized receipts for seized property shall be given to the owner and/or occupants of the vehicle.
- 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 departmental policies and procedures pertaining to the protection of departmental personnel from communicable diseases and hazardous substances. Any exposure of officers or others to such substances shall be reported in accordance with regulations, policies and procedures of this department.
- I. **Security of Vehicles and Property Contained Therein:** If the search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, officers shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazard.
- J. **Responsibility of Supervising Officer:** An officer supervising a vehicle search should ensure that it is performed legally and properly. In the event that the vehicle search is conducted under a warrant, the supervisor shall ensure that the execution of the warrant is properly reported to the issuing court or other authority. The supervisor

DEKALB POLICE DEPARTMENT

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ILEAP Standards Covered: NA

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should also ensure that necessary reports regarding the search be completed by the officer(s).

**Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police .**

NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.