



**TEXAS SOUTHERN UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY**



STANDARD OPERATING PROCEDURE

SUBJECT Searches Warrant and Warrantless		NO. OF PAGES: 4
REFERENCE: Criminal Code of Procedures	EFFECTIVE DATE: Jan. 1, 2009	REVIEW DATE: N/A
General Order 043	SPECIAL INSTRUCTIONS/SUPERSEDES: N/A	ISSUING AUTH.: CHIEF OF POLICE

PURPOSE: To establish a standard procedure for officers to conduct Legal searches and seizures.

GOAL: For officers to investigate suspicious activity and conduct searches knowledgeably and competently while observing state law and the U.S Constitution.

PROCEDURE:

The Fourth Amendment to the U.S. Constitution guarantees all citizens the right to be secure in their persons, house, papers and effects against unreasonable searches and seizures. The Supreme Court decision regarding searches and seizures place the responsibility on law enforcement to ensure that citizen’s rights are protected. Deputies shall scrupulously observe Constitutional guidelines when conducting searches and always be mindful of their lawful propose. Deputies shall have a firm understanding of reasonable suspicion and probable cause.

I. Warrantless Searches

- A. Consent to Search – A search may be conducted after receiving a “Consent to Search” in lieu of a search warrant. Officers utilizing “Consent to Search” are to ensure;
 - 1. The person giving consent has the authority to do so;
 - 2. The person gave the consent voluntarily;
 - 3. The consent was obtained in writing (Department form)
 - 4. The person giving the consent is present (on location) during search and;
 - 5. The search is terminated immediately if person (authority) giving consent withdraws consent.

- B. A search may be conducted without a warrant, if it is justified under emergency or exigent conditions and in compliance with the Texas Code of Criminal Procedures.

- C. An officer may seize contraband, fruits or instruments of the crime under the “Plain View Doctrine”.

- D. An officer may seize property that is voluntarily abandoned and in a location where no one has a reasonable expectation of privacy.

- E. During the service of an arrest warrant (at the defendant's home) officers may conduct a warrantless protective sweep.

II. Warrantless Searches of Vehicles

- A. If circumstances dictate, an officer may be directed to enter a vehicle with the sole purpose of examining the VIN to determine ownership.
- B. An officer may search a vehicle that lawfully is in police custody and/or conduct an inventory pursuant to Department Policy.
- C. An operable vehicle may be searched:
 - 1. Under probable cause. Note that the initial search of a vehicle under reasonable suspicion or consent (see item #2) may give rise to probable cause that evidence, contraband, fruits or instruments of the crime might be found within the vehicle, thus justifying a full-scale search.
 - 2. With Consent to Search from owner in writing.
 - 3. Incident to arrest of the driver / occupant (Inventory)
- D. If checking a vehicle for weapons, confine it to the passenger area and any other immediate accessible location within the vehicle (not locked).
- E. May conduct an emergency search of the vehicle (exigent circumstances) limit the search to whatever is necessary to respond to the emergency.

III. Warrantless Search of Person(s)

- A. All suspect(s) are to be searched incident to arrest to include;
 - 1. Any articles carried by the suspect(s) (ie.. backpack, bag and etc.)
 - 2. Suspect's immediate surroundings.
- B. Suspect(s) being searched incident to arrest are to be searched as soon as practical after the arrest and at/or near the place of arrest.
- C. Officers conducting searches incident to arrest are to use appropriate and reasonable force if the suspect resist.
- D. Officers preparing to execute a search warrant are to;
 - 1. Meet with a patrol supervisor prior to the service of the warrant to plan actions to be taken (manpower, officer safety issues, layout, entry methods assignments and etc.);
 - 2. Execute the warrant within the time constraints imposed by law;
 - 3. Confirm that the place, thing and/or person to be searched is as named in the warrant;
 - 4. Serve the warrant with a copy of the affidavit attached.

- E. In serving the warrant, announce your presence and purpose, await a reasonable interval before entry.
 - 1. If entry is refused, follow pre-established plans;
 - 2. Find and seize all property listed in the warrant;
 - 3. Seize any other evidence reasonably related to the listed warrant;
 - 4. Based on the “plain View Doctrine” seize any contraband, fruits or instrument of a crime;
 - 5. Frisk any person at the scene of the warrant execution.
 - 6. If the object of the search is contraband, detain and search any occupant of the place searched.
 - 7. In situations where the warrant requires the search of a person, properly limit the search as required by law.
 - 8. Properly inventory all property seized.
 - 9. Leave a copy of the warrant and inventory seized at the location.
 - 10. Return the warrant, affidavit and inventory to the court within the time constraints imposed (72 hours less date of issuance and return).

V. Documentation

- A. Properly document all actions relating to search and seizures (warrant or warrantless) in a complete and detailed offense report.

APPROVED:

Roger Byars
Chief of Police

Date

Review and Responsibility

Responsibility Party: Texas Southern University Department of Public's Safety's Command Staff

Review: Review will be conducted every even numbered

Retention: Original on file in the Office of the Chief of Police

Approval: Roger D. Byars, Director for Public Safety/Chief of Police

Date of Approval: September 1, 2008