

	<b>LOWER MERION TOWNSHIP POLICE DEPARTMENT</b> <b>Ardmore, Pennsylvania</b>	
	<b>Policy 3.8.2</b>	
Subject:		Distribution:
<b>Search and Seizure Without a Warrant</b>		<b>All Sworn Personnel</b>
Date of Issue:	Expiration Date:	Rescinds:
<b>06-01-2014</b>	<b>Until Amended or Rescinded</b>	<b>Directive: 06-100</b>
References:		
<b>CALEA: 1.2.4; PLEAC: 1.2.2, 1.2.3</b>		
By Authority of:		
		<b>Superintendent of Police</b>

## PURPOSE

The purpose of this policy is to establish procedures to be used during searches and seizures conducted by officers in the course of their duties.

## POLICY

It is the policy of the Lower Merion Police Department that all searches and seizures will be based on the standard of reasonable suspicion or probable cause as required by the Fourth Amendment to the Constitution and will include any other situations authorized or governed by the United States and Pennsylvania constitutional provisions, Pennsylvania statutes or case law. **(CALEA 1.2.4) (PLEAC 1.2.3 f)**

## PROCEDURE

### **A. Search of Arrestees**

1. When a person is placed under arrest you must search the person for weapons and contraband. You may also search the immediate area of the arrestee for weapons that might be used to harm the officer. The officer may seize evidence found during these types of searches. Generally, a warrant is required to collect blood, saliva and hair samples from any suspect in custody.
2. In-custody searches and seizures shall be conducted in accordance with the United States and Pennsylvania Constitutions. Compliance with these requirements ensures fair, legal and equitable treatment of all people. **(PLEAC 1.2.2 c)**

## **B. Investigative Stop**

1. Investigative stops by officers shall be supported by reasonable suspicion, which shall subsequently be articulated in an incident report documenting the stop.
2. 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 that person briefly in order to investigate the circumstances that provoked suspicion.
3. The reasonable suspicion for the stop shall be based on the officer's personal observation and/or information supplied by another person.
4. Officers will diligently pursue a means of investigation that is likely to confirm or dispel his/her suspicions quickly when detaining a suspect.

## **C. Frisk of an Individual:** The following cursory searches are permitted under circumstances where the officer has articulable reasons to fear for his/her safety. **(PLEAC 1.2.3 b)**

### **1. "Terry Stop"**

- a. Officers may conduct a search limited to weapons if they observe unusual and suspicious conduct on the part of an individual that leads them to believe that:
  1. There is criminal activity afoot and;
  2. That the person is armed and dangerous.
- b. The use of handcuffs during a brief investigative stop is permitted if put on for the officer's safety and the officer can articulate the reason to fear for his or her safety.
- c. The use of handcuffs must be temporary; they are to be used no longer than is necessary. Once the concern for safety is resolved handcuffs must be removed.
- d. Terry frisks can extend to the passenger compartment of a vehicle, and officers may search the driver/passenger(s), if the officer reasonably believes that a suspect, lawfully stopped, can gain access to a weapon.
- e. Officers shall not search 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, unless both probable cause and exigent circumstances exist.

- f. 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.

#### **D. Search of a Vehicle Under a Moveable Vehicle Exception (PLEAC 1.2.3)**

1. Officers shall adhere to the following procedures when initiating a search of a vehicle under a moveable vehicle exception.
  - a. Under the Pennsylvania Constitution, there is no "per se exception" to the warrant requirement for vehicles. Probable Cause to search, without any accompanying exigent circumstances, does not justify a warrantless search of a vehicle.
  - b. Vehicles, lawfully stopped spontaneously on a highway, may often be searched without a warrant under Pennsylvania law by:
    1. **Consent** - Officers may conduct searches of vehicles with the knowing and voluntary consent of the owner. (**PLEAC 1.2.3 a**) See Policy 3.12.3, Consent Searches.
    2. **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 that are obviously contraband.
    3. **Exigent circumstances** - when an officer can articulate a reasonable belief that a real and immediate danger exists to the officer or the public, a warrantless search of a vehicle is permitted. The exigency needs to be apart from the vehicles mobility and cannot be created by any action of the officer. (**PLEAC 1.2.3 d**)

#### **E. Search at the Scene of a Crime (PLEAC 1.2.3 c)**

1. Depending on the location of a crime scene, consent or a warrant may be required prior to a search (i.e., public v. private property). Consent can only be authorized by someone who possesses common authority or has frequent access over the premises. Only they can authorize a consent search within limits if their waiver of rights is voluntary (they understand it can be revoked at anytime during the search) and made intelligently.
2. A "protective sweep" of a home to look for other victims or a suspect who might be armed is justified. Evidence that is in plain view may be seized, but officers cannot conduct a general and nonspecific search of a crime scene to gather evidence. Thus, absent an emergency threatening life or limb, a warrantless search of a crime scene is unconstitutional. In sum, there is no "crime scene exception" to the search warrant requirement.

## **F. Exigent Circumstances**

1. Officers may conduct searches and seizures without a warrant in any situation where exigent circumstances exist. Those circumstances exist when an officer can articulate a reasonable belief that a real and immediate danger exists to the officer or the public, or when an officer recognizes that there is not enough time to obtain a warrant, and that if he/she does not conduct a search immediately, evidence may be lost forever. **(PLEAC 1.2.3 d)**

## **RESPONSIBILITY**

It is the responsibility of all supervisory personnel to ensure that all personnel under their immediate supervision comply with this policy.

**Also refer to Policy 3.7.5, Inventory Search and Policy 3.12.1, Investigatory Detention/Stop.**