



East Norriton Township Police Department

GENERAL ORDER 1.2.3

WARRANTLESS SEARCH AND SEIZURE

Subject:

Limits of Authority

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Index Words

Search and Seizure Without Warrant

1.2.3 Warrantless Search and Seizure

A. Search by consent.

1. Officers shall consider the following procedures when initiating searches by consent.
 - a. Voluntariness of consent.
 - 1.) Consent to search must be voluntarily given and not the result of duress or coercion, express or implied. Voluntariness is a question of fact to be determined from all the circumstances. Officers shall ensure consent searches are in fact voluntary and consent has been freely given prior to initiating any such search.
 - 2.) Prior to conducting the search, Officers shall read to the subject the Department "Consent to Search" form. This form shall be signed and dated by the subject, the Officer and a Witness.
 - 3.) Property seized will be listed on the "Consent to Search" form.
 - b. Authority to consent.
 - 1.) In order for consent to be valid, it must be given by one possessing control over the area searched and may not be gained by deception.
 - 2.) Any officer initiating a consent search shall ensure the subject giving consent has ownership or other authority to consent to the area or item to be searched, i.e., person in charge may not consent to the search of another person's items if the other person is present.
 - c. Scope.
 - 1.) A person has a right to limit the scope of a consent search.
 - 2.) Officers conducting consent searches shall ensure the subject granting consent has extended consent specifically, voluntarily, and unequivocally

to the area and/or item(s) searched.

B. Stop and/or frisk of an individual.

1. Officers shall consider the following procedures when initiating a stop and frisk.

a. Investigative stop

1.) Investigative stops by officers shall be supported by reasonable suspicion and 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 a particular person has committed, is committing, or is about to commit a crime, may detain person briefly in order to investigate the circumstances that provoked suspicion.

(a.) The reasonable suspicion for the stop shall be based on the officer's personal observation and/or corroborated information supplied by another person.

3.) Length of stop.

(a.) Officers will diligently pursue a means of investigation is likely to confirm or dispel his/her suspicions quickly when detaining a suspect.

b. Cursory searches under circumstances where the officer can articulate reasons to fear for his/her safety.

1.) "Terry Frisk."

(a.) Officers may conduct a frisk/pat-down of the outer clothing of an individual for weapons if they observe unusual and suspicious conduct and believe:

(i.) Based on specific, articulable facts that the person is armed and dangerous.

2.) Handcuffs.

(a.) Officers conducting "Terry" frisk/pat-downs shall consider controlling and securing the subject(s) with handcuffs first, prior to initiating the pat-down under the "Terry" criteria.

(b.) Officers shall advise any person handcuffed for a "Terry frisk/pat-down that they are being handcuffed for officer safety, they are not under arrest, and the handcuffs will be removed when officer safety is ensured.

3.) Vehicle extension.

(a.) Terry frisks can extend to the passenger compartment of a vehicle, and officers may search the driver/passenger(s), if the

officer reasonably believes a suspect, lawfully stopped, can gain access to a weapon.

(b.) Officers shall not search without a warrant, 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.

c. Plain feel doctrine.

1.) Officers conducting cursory frisk/pat-downs may seize an object when it becomes immediately apparent to the Officer, based on his/her knowledge gleaned from the sense of touch, probable cause exists to believe the object is contraband and can be seized. No manipulation of the object is permitted.

C. Search of a vehicle under a moveable vehicle exception.

1. Officers shall consider 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 warrant-less 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 search a vehicle upon the knowing and voluntary consent of the owner.

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 which are obviously contraband.

3.) At the Scene of a Stop -- When an officer can articulate facts which lead to a reasonable belief that an occupant may be armed and dangerous, the officer may search the passenger compartment for weapons (that is, where a weapon might reasonably be found).

D. At the Scene of a Crime

1. Officers may conduct a warrantless entry of residences under the following conditions:

a. Consent by the tenant or owner.

b. The belief that someone in the premises is armed and dangerous.

d. The belief that someone’s life or personal safety is in danger.

e. The belief that a serious crime is being committed in your presence and the likelihood the offender would escape if time is taken to get a warrant or that evidence of crime would be destroyed.

- f. Plain View - Upon observation of evidence of a crime in progress and/or plain view of evidence or contraband.
 - 2. Officers shall secure a search warrant in all cases where circumstances do not provide for exceptions to the warrant rule.
 - a. Officers may contact the on-call Deputy District Attorney to provide an opinion in all cases which may be questionable.
- E. Search in Exigent Circumstances.
 - 1. Officers shall consider the following procedures when initiating a search in exigent circumstances.
 - a. Factors to be considered for Exigency:
 - 1.) Gravity of Offense
 - 2.) Reasonable Belief the individual is armed
 - 3.) It is necessary to save a life, prevent injury or serious property damage
 - 4.) The likelihood evidence will be destroyed prior to being able to obtain a warrant
 - b. Vehicles.
 - 1.) If an officer has probable cause to search a vehicle, and an exigency exists, no warrant is needed.
 - 2.) This exigency needs to be apart from the vehicle's potential mobility.
 - 3.) The exigency which is cited as the necessity for conducting the search cannot be created by any action of the officer(s).
 - 4.) When ample advance information is available a search of a vehicle is likely to occur in conjunction with the apprehension of a suspect, officers shall secure a warrant before the vehicle maybe searched.
 - c.. Residences.
 - 1.) Refer to Subsection "D" above.
- F. Inventory searches of seized vehicles or other property
 - 1. Officers shall consider the following procedures when initiating an inventory search of seized vehicles or other property.
 - a. Officers shall conduct an inventory search for the protection and preservation of property contained in all vehicles being towed and impounded. This is to ensure the safekeeping of the owner/operators property, and to protect the police officers and the Department from claims or disputes concerning alleged

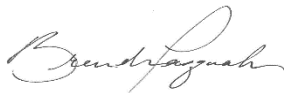
lost/stolen property.

- b. Officers shall not conduct an inventory search if the purpose in conducting the search is to find evidence of a crime.
- c. Officers will use the Department "Auto Inventory and Towing Log" form when conducting an inventory search. Items seized for evidence or safekeeping shall be listed on the form.
- d. Impounding of vehicles shall be in compliance with General Order 1.2.7.

G. Situations authorized by statute and federal constitutional provisions.

- 1. East Norriton Township police officers will adhere to all Commonwealth and Federal statutory and case law provisions in the course of searches and seizures.
- 2. Other situations in which warrantless search and seizures of persons and/or property may be justified include, but are not limited to: Abandonment of property, Open Fields.

By order of:



Brandon Pasquale
Chief of Police