

Date Revised: 9/23/2019

Course Goal: To teach recruit officers the criminal justice system.

Learning Objective:

- Recognize the scope and necessary conditions for conducting the following types of motor vehicle searches: [\[16.4.A\]](#)
 - Probable cause searches [\[16.4.A.1\]](#)
 - Seizures of items in plain view [\[16.4.A.2\]](#)
 - Protective searches [\[16.4.A.3\]](#)
 - Consent searches [\[16.4.A.4\]](#)
 - Searches incident to custodial arrest [\[16.4.A.5\]](#)
 - Instrumentality searches [\[16.4.A.6\]](#)
- Recognize the scope and necessary conditions for conducting a vehicle inventory [\[16.4.B\]](#)

Session Time: 2 Hours

<p>Resources:</p> <ul style="list-style-type: none"> • Outside parking lot, or outside location to simulate traffic stop with vehicles • Black and white police vehicles and plain car vehicles • Scenario driver licenses and proof of insurance or use FI cards to simulate license and insurance • Inert firearms for recruits • Prop gun for violator • Prop contraband • Prop knife • Radios for recruits 	
<p>Session Summary: The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.</p>	
Outline	Instructor's Notes
<p>I. Searches and Seizure Involving Motor Vehicles</p> <p style="padding-left: 20px;">A. Probable Cause Search [16.4.A.1]</p> <p style="padding-left: 40px;">1. Courts have determined that the risk of the vehicle being moved to a different location, and the reduced expectation of privacy of vehicles, justifies a warrantless search as long as there is</p>	<p><u>TTS 16.4.A.1 - 16.4.B (2 hours)</u></p> <p style="text-align: center; background-color: yellow;">No PowerPoint</p> <p>Run Learning Activity # 1 - Vehicle Searches [LD 22 Infused]</p> <p style="color: red;">Note: See last page for learning activity # 1</p>

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<p>probable cause the vehicle has contraband or evidence of a crime.</p> <ol style="list-style-type: none">2. If officers believe there is probable cause to obtain a search warrant, they can search vehicle without a warrant<ol style="list-style-type: none">a. Known as Probable Cause Exception or automobile/vehicle exceptionb. Vehicle must be mobile or appear mobilec. If vehicle is in area with reasonable expectation of privacy (garage), may need a warrant.3. Conditions- For a vehicle to be searched under probable cause exception:<ol style="list-style-type: none">a. Vehicle must have been lawfully stopped or be lawfully accessibleb. Officers must have enough facts, knowledge, training, or experience to provide probable cause that the item they are seeking is inside the vehicle.4. Scope of search<ol style="list-style-type: none">a. May search anywhere in a vehicle as long as what they are searching for might reasonably be located there, including locked containers.5. Motor homes are considered vehicles when they are being used on highways or if it is located in places that are not regularly used as residences.6. Searches do not have to happen contemporaneously with vehicle stop and can be conducted after tow and impound as long as there is still probable cause. <p>B. Plain View Search [16.4.A.2]</p> <ol style="list-style-type: none">1. Seizing crime-related evidence in an officer's plain view from a place the officer has a lawful right to be does not involve any type of search.2. Officers must:	
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- a. Have probable cause to believe the item is crime-related
 - b. Lawfully be in a location to observe the item
 - c. Have lawful access to the item
 - 1) Officers can observe items outside or if lawfully inside vehicle
 - 2) Flashlights and other sensory tools can be used as long as it allows officers to see anything that would be visible during daylight hours.
- C. Protective Search [\[16.4.A.3\]](#)
- 1. Limited warrantless search of the passenger compartment of a vehicle for weapons.
 - 2. Conditions:
 - a. The driver or other occupant is being lawfully detained
 - b. The officer reasonably believes, based on specific facts, that there may be a weapon (lawful or unlawful) or item that could be used as a weapon, inside the vehicle
 - c. Scope- Officers may search:
 - 1) Only for weapons or potential weapons
 - 2) In the passenger compartment of the vehicle
 - 3) Where occupants would have reasonable access to a weapon or item that could be used as a weapon
 - 4) Once determine there is no weapon or harmful object, search must stop.
 - 5) Officers should continue to search if just one item is found.
 - d. Officers can seize any contraband found during the search and can

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<p>develop probable cause exception from the contraband found.</p> <p>e. Officers can seize and open containers if it is reasonable to contain a weapon or be used as one.</p> <p>D. Consent Search [16.4.A.4]</p> <ol style="list-style-type: none">1. Conditions- Must be<ol style="list-style-type: none">a. Voluntaryb. Obtained from someone with authority to give consent.2. Scope of search is only areas the officer reasonably believes consent was given.3. Courts determine the voluntariness based on totality of the circumstances. Easier for officers to prove if:<ol style="list-style-type: none">a. Obtain a signed consent-to-search formb. Verbally advise individuals they have a right to refuse.4. Closed containers<ol style="list-style-type: none">a. Locked containers would need additional consent from owner.b. Officers should establish ownership as the person consenting may not have standing of container. <p>E. Search Incident to Custodial Arrest [16.4.A.5]</p> <ol style="list-style-type: none">1. Conditions- Can search passenger compartment if it is a valid custodial arrest of any occupant and:<ol style="list-style-type: none">a. The arrestee is unsecured (e.g. not locked in the police car, not handcuffed) andb. Has reachable access to the vehicle and/orc. The officer has reasonable suspicion to believe evidence, pertaining to the crime for which the suspect was arrested, is to be found in the vehicle and/or	
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<ul style="list-style-type: none">d. The officer has reasonable suspicion there is a weapon in the vehiclee. Note: Search can be done before suspect is placed under arrest as long as there's probable cause to arrest at time of search <p>2. Scope- Peace officers may search</p> <ul style="list-style-type: none">a. "The passenger compartment of a vehicle incident to a recent occupant's arrest only if it is reasonable to believe that the arrestee might access the vehicle at the time of the search or that the vehicle contains evidence of the offense of arrest"b. Or the arrestee is un-secure and still has access (arms reach) to the vehicle.c. Note: Trunk may not be searched. <p>3. Arrest must be custodial, meaning arrestee will be transported to a facility, not cite and release.</p> <p>4. Establishing nexus to vehicle</p> <ul style="list-style-type: none">a. Suspects can be inside or outside and do not have to be observed inside, as long as:<ul style="list-style-type: none">1) Officers reasonably believe the arrestee was an occupant shortly before the arrest2) There was something else indicating a close association between the vehicle and the arrestee at the time of the arrest (e.g., the arrestee placed an object inside the vehicle just before the arrest) <p>5. Contemporaneous nature of search</p> <ul style="list-style-type: none">a. Search must be:<ul style="list-style-type: none">1) At or near the time of the arrest2) At or near the place of the arrest	
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<ul style="list-style-type: none">3) While the arrestee is still at the sceneb. Contemporaneous requirement can be waived if it was necessary:<ul style="list-style-type: none">1) To delay the search2) To conduct the search in another location3) To conduct the search after the arrestee was removed from the scene4) The search was conducted as soon as it was practical to do soF. Searches of Vehicles as Instrumentalities<ul style="list-style-type: none">[16.4.A.6]1. Conditions<ul style="list-style-type: none">a. The crime was committed inside the vehicleb. The vehicle was the means by which the crime was committed (e.g., hit and run)c. Note: Vehicle is not an instrumentality if was just used during the crime.2. Scope<ul style="list-style-type: none">a. Officers may search any part of the vehicle where the object(s) they are looking for might reasonably be located.G. Searches of Vehicles for Vehicle Inventory<ul style="list-style-type: none">[16.4.B]1. Conditions<ul style="list-style-type: none">a. Vehicle must be in the lawful custody of law enforcementb. Officer conducts the inventory pursuant to a standardized agency policy2. Scope<ul style="list-style-type: none">a. Under the seatsb. Glove compartmentsc. Consolesd. The trunk	
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<ul style="list-style-type: none">e. Closed containers3. The purpose of a vehicle inventory is to protect:<ul style="list-style-type: none">a. The property of a person whose vehicle has been impounded or storedb. The government agency from false claims of loss4. Contraband discovered during search can be seized5. Decision to impound and inventory vehicle is based on good faith and lawful reasons such as:<ul style="list-style-type: none">a. Driver (sole occupant) is taken into custodyb. Vehicle, involved in a traffic accident, cannot be drivenc. Vehicle must be moved to protect it or its contents from theft or damaged. Circumstances listed in the Vehicle Code (e.g., vehicle as a traffic hazard, stolen vehicle, etc.)6. If the vehicle is lawfully in police custody, there will always be a legal authority to impound, but sometimes the officer can release it to a valid driver.7. If a driver or occupant requests to keep an item, officers can pat it down and release.8. Agency procedures for conducting a vehicle inventory will be considered sufficiently standardized as long as:<ul style="list-style-type: none">a. The agency has an established routineb. All officers know about the routinec. All officers are supposed to follow the routine when conducting vehicle inventories9. Officers have some discretion to open some containers, however, this	
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<p>discretion cannot be unlimited and must be based on concerns related to the purposes of an inventory</p> <p>10. If a vehicle has been legally repossessed, officers can examine and seize inventoried items without a warrant if they have reason to believe the items are connected to a crime being investigated.</p>	
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Learning Activity # 1 – Vehicle Searches

Purpose: To teach the recruits the laws concerning vehicle searches.

Description:

1. **Assign** or take two volunteer recruits to play the role of officers. The instructor can play the role of the violator or have another recruit volunteer.
2. **Assemble** the groups at pre-determined locations
3. **Position** the B/W vehicles and plain vehicles in separate traffic stop formations
4. To ensure each group receives the same level of training, follow the below three scenarios along with the facilitation notes. They are designed to address the TTS' in LD 16, chapter 4. If time permits, instructors can use their own scenarios after the following three have been thoroughly covered and the recruits have a strong understanding of the TTS'.
5. **Traffic Stop Scenario #1.** Present the following:
 - a. "You and your partner are assigned to unit 14A21 (present date & time). While westbound on Manchester Avenue, the officers observed the violator's vehicle traveling in the number one lane (also westbound on Manchester Avenue), and failed to stop for the mid-phased red tri-light at Aviation Boulevard. The officers conducted a traffic stop of the vehicle at 5651 W. Manchester Avenue."
 - b. Although this is not a tactics exercise, remind the recruits to utilize what they learned from their tactics instructors [LD 22 infused, Vehicle Pullovers]
 - c. Place prop narcotics in plain view inside vehicle (back seat, dashboard, center console) [16.4.A.2]
 - d. Recruits should observe prop narcotics and take appropriate action.
 - 1) Remove driver from vehicle and detain
 - 2) Recover prop narco and proceed to search the whole vehicle for additional narcotics. [16.4.A.1]
 - e. End scenario when instructor is satisfied the recruits displayed knowledge of TTS' 16.4.A.1 and 16.4.A.2 or end scenario if recruits did not problem solve the scenario correctly.
 - f. Debrief
 - 1) **Ask** the recruits to describe their actions and thought process during the scenario
 - 2) **Facilitate** a discussion, covering TTS' 16.4.A.1 and 16.4.A.2
 - 3) **Ask** Where can officers search? Answer: the whole vehicle (bumper to bumper)
 - 4) As the recruit reveals each step that occurred, the instructor can further discuss the points of each TTS
 - g. **Ask** If the violator is being arrested for illegal possession of narcotics, should it have been a search incident to custodial arrest? [16.4.A.5]
 - 1) Answer: In this scenario, probable cause search applies. Search incident to arrest could be used but the discovery of narcotics allows probable cause search, which allows search of the whole vehicle.
 - 2) **Ask** What is the scope and restrictions to searches incident to arrest?
6. **Traffic Stop Scenario #2.** Present the same scenario violation.

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- a. Place prop knife or gun in visible location (back seat, center console, dash board)
 - b. Allow recruits to problem solve
 - 1) Remove violator from vehicle
 - 2) Detain or have violator stand to side
 - 3) Secure weapon
 - 4) Search vehicle based on protective search [16.4.A.3]
 - c. End scenario when instructor is satisfied the recruits displayed knowledge of the TTS or end scenario if recruits did not problem solve the scenario correctly.
 - d. **Facilitate** discussion and debrief the scenario to fulfill TTS 16.4.A.3
 - 1) **Ask** recruits to describe actions and thoughts during scenario
 - 2) **Ask** Where can they search after locating the weapon? Answer: Anywhere a weapon can be found in the passenger compartment.
 - 3) **Ask** Where can they search if narcotic contraband was found during the protective search? Answer: bumper to bumper. The search has now become a probable cause search.
7. **Traffic Stop Scenario #3.** Present the following scenario
- a. Officers hear a broadcast of attack occurred in a vehicle 10 minutes ago. Vehicle used was (give vehicle color and number of doors only so that it is only a possible suspect vehicle). Suspect driving described as (provide sex of violator only). Additional information, suspect was seen putting narcotics under right rear floor mat (or under right front passenger seat) prior to fleeing scene.
 - b. Officers observed violator vehicle fail to stop at a red light and conduct a traffic stop.
 - c. Scenario is set up so the recruits do not have enough probable cause to search or arrest and must gain access to search by other means, such as consent. [16.4.A.4]
 - d. After presenting scenario and prior to starting, establish with the class there is not enough information in the description to be sure the violator is the sexual assault suspect.
 - e. If recruits ask for consent to search vehicle, violator will grant it.
 - f. If recruits find narcotics, violator should be handled appropriately.
 - 1) Detain/Handcuff/Arrest
 - g. End scenario when instructor is satisfied the recruits displayed knowledge of the TTS or end scenario if recruits did not problem solve the scenario correctly.
 - h. **Ask** Other than the vehicle code violation, what crime was committed? Answer: Sexual assault.
 - 1) **Ask** Can the officers search the vehicle for evidence of the sexual assault? Answer: yes, vehicle was used as instrument of a crime. [16.4.A.6]
8. **Review** searches of vehicles for vehicle inventory. [16.4.B]

Resources needed:

- Black and white police vehicles and plain car vehicles
- Scenario driver licenses and proof of insurance or use FI cards to simulate license and insurance
- Inert firearms for recruits
- Prop gun for violator

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- Prop contraband
- Prop knife
- Radios for recruits

Handouts: None

Time required: 2 Hours