



# Milford Police Department

## General Orders



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## Search & Seizure

### 1. Purpose

The Purpose of this order is to provide officer with a guideline for search and seizure both with and without a warrant.

### 2. Scope

This Order shall apply to all divisions for all circumstances where a search and/or seizure arise.

### 3. Definitions

1. *Motor vehicle*: Any vehicle operating or capable of being operated on public streets or highways, to include automobiles, trucks, trailers, recreational vehicles, mobile homes, motor homes, and any other type of vehicle, whether self-propelled or towed. The motor vehicle section of this policy does not apply to vehicles of any type that have been immobilized in one location for use as a temporary or permanent residence or storage facility, or which are otherwise classified by the law as residences or buildings.
2. *Search*: An examination of all or a portion of the vehicle with an investigatory motive (i.e., for the purpose of discovering fruits, instrumentalities, or evidence of a crime or contraband). A vehicle search may also be conducted to determine the vehicle identification number or the ownership of the vehicle. Inventories of personal property conducted pursuant to impoundment of a vehicle are not covered by this policy.

### 4. Procedures

#### A. General Searches – With a Warrant

1. All Search and/or seizure warrants shall comply with sections [54-33a through 54-33q of the Connecticut General Statutes](#).

#### B. General Searches - Without a Warrant – Search Warrant Exceptions

1. All search and/or seizures without a warrant shall be conducted within the parameters of an established search warrant requirement exception as listed below.
  - a Plain view
  - b Abandoned property
  - c Incident to lawful custodial arrest
  - d Consent – both parties in co-ownerships if both are present [[State v Brunetti](#)]
  - e Third party search
  - f Exigent Circumstances

- i. Immediate entry required to prevent escape or destruction of evidence or because of danger to police or person(s)
  - ii. Hot pursuit of a fleeing felon
  - iii. Provide immediate aid
- g Terry stop
- h Open fields
- i Readily mobile motor vehicle
- j [Motor Vehicle Inventory](#)
- k Community care-taking

### C. Motor Vehicle Searches

#### 1. Location and Time of Search

- 1 Whenever possible a search of a motor vehicle and containers found therein should be conducted at the location where the vehicle was discovered or detained, as soon as is reasonably possible. If a motor vehicle must be moved prior to a search then a search warrant shall be obtained prior to any search of the motor vehicle.

#### 2. Types of Warrantless Motor Vehicle Searches

- a. *Probable Cause* - Officers may search a vehicle without a warrant where there is probable cause to believe that the vehicle contains fruits, instrumentalities, or evidence of a crime or contraband. This type of warrantless search shall be conducted only when the vehicle remains mobile. When a vehicle has broken down, or there is otherwise no significant chance the vehicle will be driven away or that evidence contained within it will be removed or destroyed, officers shall search the vehicle only after a warrant has been obtained or the officers determine that some other exception to the warrant requirement is applicable. 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. Officers may not search areas of the vehicle that could not contain the fruits, instrumentalities, or evidence of a crime or contraband being sought.
- b. *Consent* No law enforcement officer may ask the operator of a motor vehicle to conduct a search of a motor vehicle or the contents of the motor vehicle that is stopped by a law enforcement officer ***solely*** for a motor vehicle violation. Any search by a law enforcement official of a motor vehicle or the contents of the motor vehicle that is stopped by a law enforcement official ***solely*** for a motor vehicle violation shall be:  
Based upon probable cause, or  
After having received the ***unsolicited*** consent to search from the operator of the motor vehicle in written form or recorded by BWC or dashboard camera.

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- c. *Incident to an Arrest*
- i. Officers may conduct a search of a vehicle incident to the arrest of the operator or occupants of the vehicle only if:
    - The arrestee is within reaching distance of the passenger compartment at the time of the search; or
    - There is reason to believe that the vehicle contains evidence of the offense of arrest. [[Arizona v Gant](#)]
  - ii. Searches of vehicles conducted incident to the arrest of an occupant shall be limited to areas within reach and control of the arrestee (normally the passenger and hatchback area of the vehicle). [[State V Della Santos](#)]
  - iii. The trunk and the engine compartment compartments normally may not be searched incident to an arrest. [[State v Badgett](#)]
- d. *Search for Weapons* - Where there is an objectively reasonable belief that a driver or occupant of a vehicle is potentially dangerous, officers may conduct a search of the vehicle for weapons. Searches for weapons normally must be confined to the passenger area of the vehicle and those areas of the passenger compartment in which a weapon could be hidden. Areas may not be searched that are not immediately accessible to the vehicle's occupants.
- e. *Vehicle Identification Number or Vehicle Ownership* - Where circumstances require that officers determine the vehicle identification number or ownership of a vehicle, and such information cannot be acquired from the exterior of the vehicle, officers may enter the vehicle to obtain this information. 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.
- f. *Emergencies* - Officers may enter a vehicle without a warrant where emergency circumstances make it necessary for them to do so in order to protect life or property, or when the exigencies of the situation otherwise require such action. Search of a motor vehicle under emergency circumstances not otherwise covered under the warrant exceptions 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. 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.
3. Containers Found in a Vehicle
- a. *Unlocked Containers* - Authority to search unlocked containers found in the motor vehicle is determined by the nature of the search.
- i. *Probable Cause Searches* - In a probable cause search, containers such as paper bags, cardboard boxes, wrapped packages, etc., wherever found in the vehicle, may be opened, provided that they could contain the items being searched for.

- ii. *Consent*- 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.

- iii. *Incident to Arrest*

- The requirements set forth in *Arizona v Gant* as listed in [Section 4.C.2.c](#) above also apply to any containers found within the motor Vehicle. [[Arizona v Gant](#)]
  - When the passenger compartment of a vehicle is being searched incident to an arrest, unlocked containers found within the passenger compartment may be opened.
- i. *Other Circumstances* - Unlocked containers found in a vehicle under circumstances that do not justify an investigatory search of the container under any of the foregoing exceptions to the search warrant requirement should be secured but not searched until a warrant is obtained to search them.
- b. *Locked Containers* - Locked containers such as attaché cases, suitcases, and footlockers found during a vehicle search should be opened only in the following cases:
  - i. The search is being conducted under a warrant, or
  - ii. There is probable cause to believe that a container located in the motor vehicle contains contraband or evidence, or
  - iii. A valid consent to open the locked container is first obtained.
  - iv. In other types of searches, locked containers should be secured by search personnel and opened only after a warrant has been obtained.

#### 4. Items Belonging to Passengers

- a. Items belonging to passengers (e.g., wallets, handbags, purses) may be examined only in the following cases:
  - i. Officers have probable cause to search the vehicle, and the belonging in question is capable of concealing the item or items being searched for, or
  - ii. Officers have received valid consent to search the item, or
  - iii. A passenger has been placed under arrest, and the arrested passenger's belongings are being lawfully searched incident to that arrest.

5. Conduct of the Search

- a All searches should be conducted in a manner that minimizes the intrusiveness of the search and the inconvenience caused to vehicle owners, occupants, and other persons involved.
- b 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.
  - i. If damage does occur it shall be photographed and documented in the report.
- c A backup officer shall be summoned and present prior to any motor vehicle search.

6. Ordering Occupants Out of Vehicles

- a Officers may order both operator and passengers out of a vehicle during a search.

7. Abandoned Vehicles [CGS 14-150](#)

- a If it is determined by an officer that a vehicle has been abandoned, the vehicle may be inventoried. [[Motor Vehicle Inventory](#)]

8. Seizure of Forfeitable Vehicles

- a If there is probable cause to believe that the vehicle is forfeitable under the law as contraband, no warrant is needed before seizing the vehicle from a public place. Once seized, vehicles may be inventoried under established departmental inventory policy.

9. Compliance with Health and Safety Requirements

- a 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 department personnel from communicable diseases and hazardous substances. Any exposure of search personnel or others to such substances shall be reported in accordance with regulations, policies, and procedures of this department.

D. Consent Search of a Person

In accordance with PA 20-1, the consent of a person given to a law enforcement official to conduct a search of such person shall not, absent the existence of probable cause, constitute justification for such law enforcement official to conduct such search.

This does not affect interactions with citizens that may result in a search of a person based on something other than consent. The new statute merely prohibits officers from using consent to constitute justification for a search of a person without probable cause.