

Stowe Police Department

General Order: 2.13 Motor Vehicle Stops / Searches	Related General Orders: 2.11 Stop, Arrest and Search of Persons
This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.	
Applicable Vermont Statutes: Vermont Constitution Chapter 1 Article 11	
Date Implemented: 04/02/2013	Date Revised:

I. PURPOSE:

1. The purpose of this policy is to direct officers in their contacts with motor vehicles.

II. POLICY:

1. The policy of this Department is to protect and serve the constitutional rights of all citizens when conducting vehicle stops and searches while balancing the needs of law enforcement in solving crime for the protection of the community.

III. DEFINITIONS:

Motor Vehicle: As defined in Vermont Title 23.

Probable Cause (search): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that evidence of crime exists and that the evidence exists at the place to be searched.

Probable Cause (arrest): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that a crime has been or is being committed and the person to be arrested is the one who is or has committed the crime.

Reasonable Suspicion (temporarily detain): Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts, that would lead a reasonable law enforcement officer to believe that criminal activity is afoot.

Reasonable Suspicion (frisk): Facts and circumstances based upon observations or information, short of probable cause but based upon articulated facts, that would lead a reasonable law enforcement officer to believe that a person who is lawfully stopped is in possession of a weapon.

Frisk (weapon): A limited type of search, the limit being to those areas capable of holding a weapon and located within the subject's immediate area of control.

IV. PROCEDURES:

1. Vehicle Stops- Vehicles may be lawfully stopped under the following circumstances:

- A. Reasonable Suspicion Based Stop-where an officer has articulated facts that support a belief that criminal activity is occurring and that a vehicle is involved the officer may stop the vehicle to investigate further. The stop may continue as long as the officer diligently investigates to confirm or dispel his or her suspicion that criminal activity is occurring and the occupant(s) of the vehicle are involved.
- B. Probable Cause Based Stop-Traffic Violation-where an officer has probable cause to believe that a violation of the motor vehicle code has occurred, the officer may stop the vehicle and detain the vehicle for a reasonable amount of time while the citation is completed.
- C. Probable Cause Based Stop-Arrest/Search-where an officer has probable cause to believe that a person in a vehicle has committed a crime or probable cause to believe that a vehicle contains evidence of a crime or contraband, the officer may stop the vehicle to arrest the occupant (in the arrest situation) or stop the motor vehicle to search the vehicle in the search scenario.
- D. Consensual Contact-An officer may approach any stopped vehicle (a vehicle which is stopped by the operator's own volition prior to police contact) and attempt to speak to person(s) in the vehicle. The officer has no power to force compliance with his or her attempt to contact in the consent situation.
- E. Emergency Aid exception: An officer may stop a vehicle where he or she has objectively reasonable grounds to believe that there is an emergency at hand and an immediate need for the officer's assistance for the protection of life or property, provided that
 - a. There is an objectively reasonable basis approximating probable cause to associate the emergency with the vehicle to be stopped;
 - b. The stop is not primarily motivated by an intent to arrest or seize evidence but rather is to protect individuals in the vehicle from danger.

- F. **Ordering Persons From a Vehicle:** Under Vermont Law an officer may only order an occupant of a lawfully stopped vehicle to exit the vehicle during a lawful stop if the officer can establish particularized suspicion of criminal activity or danger to the officer before ordering the person out of the vehicle.
- G. **Frisk of a Vehicle:** An officer who has reasonable suspicion to believe that a lawfully stopped vehicle contains a weapon may search the vehicle subject to the following limitations:
- a. The search is limited to subject's immediate area of control which would be the passenger compartment of the vehicle.
 - b. The search is limited to those areas in the passenger compartment capable of holding a weapon.
- H. **Search Incident to Arrest (Vehicle):** Following the lawful arrest of a subject from a vehicle or who had exited the vehicle just prior to arrest, officers may search the vehicle incident to arrest subject to the following limitations:
- a. The arrest must be lawful and must be a full-custodial arrest.
 - b. The search must take place at the time of the arrest.
 - c. A search incident to arrest may not take place once the arrestee is secured in handcuffs and secured in a law enforcement vehicle unless the officer has reasonable grounds to believe that the vehicle contains evidence of the particular crime for which the subject was arrested.
 - d. The search incident to arrest is limited to the arrestee's immediate area of control (passenger compartment only) but is a thorough search.
 - e. Under Vermont Law the officer must articulate exigent circumstances that the arrestee will be able to reach for a weapon in the vehicle or destroy evidence in the vehicle before conducting a search incident to arrest of the passenger compartment of the vehicle.
 - f. Under Vermont law, containers in possession of an arrestee or within the arrestee's immediate area of control cannot be searched incident to arrest unless there is probable cause to believe the container contains evidence or contraband and there are exigent circumstances such that the items will be destroyed in the time it would take to obtain a warrant.
- I. **Probable Cause Searches of Vehicles:** An officer may, without a warrant, search a motor vehicle when the officer can articulate probable cause to believe that the vehicle contains evidence of a crime or contraband and, in accord with Vermont law, there are articulable exigent circumstances, such that the time it takes to get a warrant would likely lead to the loss of the contraband/evidence. These searches are subject to the following additional limitations:

- a. In cases where the vehicle was stopped or parked prior to contact by law enforcement, the area where the vehicle is parked is not private property such that officers would have to obtain a warrant to gain access to the property itself.
 - b. The vehicle is capable of movement. This does not mean that the vehicle is occupied; it simply means that the vehicle could be started and driven off with the turn of a key.
 - c. Officers may search the entire vehicle unless the information known to the officer indicates that the evidence or contraband is located in a specific place within the vehicle in which case the scope of an officer's search would be limited to the specified area.
 - d. Officers may only search those areas within the vehicle capable of containing the item being sought. For example, an officer looking for stolen stereo equipment would exceed the scope of a probable cause search if he or she were to search the ashtray for the stolen equipment.
- J. **Consent Search of Vehicle:** An officer may ask the person in control of any lawfully stopped vehicle or a vehicle that is not moving at the time of a consensual contact for consent to search the vehicle. Consent searches are subject to the following limitations:
- a. The Consent must be voluntary
 - b. Written consent is not required under federal law; however written authorization or a mobile video recording that documents consent will assist in proving the voluntary nature of the consent.
 - c. The scope of the search is within the control of the person granting consent, thus, the consenting party can direct the area which an officer is allowed to search as well as how long the search may last.
 - d. Under the rules of consent there is no requirement that officers inform a person of their right to refuse the officer's request, however a person who is told of their ability to refuse will be less likely to make out a claim that their consent was not voluntary.
 - e. Officers may not prolong a stop beyond its original justification in order to obtain consent.
- K. **Drug Sniffing Canine:** Where officers have a lawfully stopped vehicle they may utilize a drug-detection canine to sniff the exterior of the vehicle as long as the sniff occurs within the duration from a time standpoint of the purpose that justified the stop to begin with.
- a. If the stop must be prolonged beyond its justification to wait for the canine to arrive, the vehicle must be released and the canine cancelled.

- b. It is recognized that an officer may develop reasonable suspicion of possession of narcotics during the initial stop which would then justify prolonging the stop for the canine's arrival.
 - c. If the canine conducts a sniff in accordance with this policy and alerts on the vehicle, the officer has probable cause and may obtain a warrant to search the vehicle.
 - d. Putting a canine inside a vehicle is a search for 4th Amendment purposes and must not be done unless the officer can support the search by probable cause to believe the vehicle contains contraband and a warrant has been obtained.
- L. **Tow Consideration:** In accordance with Vermont law, officers shall consider whether alternate arrangements to impoundment would be appropriate i.e. park on private property; allow a friend or family member to take the vehicle; allow subject to have own tow done.
- M. **Community Caretaking Search:** Where officers have reason to suspect that a vehicle contains a dangerous item, which if left unattended will endanger public safety, the officer may search the vehicle to remove the dangerous item for safekeeping. An officer removing such an item should protect the owner's property interest by ensuring that the item is stored in accordance with department procedures relating to property and evidence.

V. DISCIPLINE:

1. Any violation of this policy may be grounds for disciplinary action consistent with any applicable collective bargaining agreement, statute, Department policy or Town policy.

Issued by: _____

Donald Hull
Chief of Police