

	<b>SPRINGFIELD POLICE DEPARTMENT</b> <b>POLICY MANUAL</b>	<b>POLICY</b> <b>#42.6.1</b>
EFFECTIVE DATE 4-26-23	 Andrew Shearer, Chief of Police	ACCREDITATION REFERENCE 1.2.2

## Search & Seizure

### 42.6.1.1 PURPOSE AND SCOPE

This policy establishes a procedure for searches and/or seizures of items by members of the Department.

The Department must establish guidelines for the execution of searches and the seizure of items in fulfilling the goals and objectives established in providing service to the community.

Search and seizure is a constitutional issue perpetually under review by the courts. The legislature has attempted to provide guidance to law enforcement by enacting statutory law. Decisions by the appellate courts at the State and Federal levels influence the process by their respective interpretations of the statutes by evaluating the acts of law enforcement in view of the language of the State and Federal Constitutions. It is incumbent upon members of the Department to maintain a contemporary understanding of the laws of search and seizure in order to fulfill the obligations of the Police Department.

### 42.6.1.2 POLICY

Members of the Department shall comply with all laws established by the courts and legislature applicable to law enforcement. Members who respond to the scene of a crime should give consideration to all of the facts surrounding the circumstances in assessing their authority to execute a search and select the appropriate lawful method to conduct crime scene tasks.

### 42.6.1.3 PROBABLE CAUSE SEARCHES

(a) Probable cause to search means reasonable cause to believe that:

1. A crime has been or is being committed, and
2. Items of evidence pertaining to that criminal offense are on a person or in a place you wish to search.

(b) Probable cause to seize means reasonable cause to believe that the item located during a search is evidence of a criminal offense.

### 42.6.1.4 WARRANTLESS SEARCHES

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(a) A search without a warrant may be made when:

1. A search incident to arrest is restricted by Oregon case law to allow a search incident to arrest only for the following reasons: (1) a search of the person and person's immediate belongings for evidence reasonably related to the purpose of arrest; (2) to prevent the destruction of evidence, and; (3) for officer safety. A search incident to arrest justified by the latter two reasons must be confined to the arrestee's person and does not include the immediate area around the arrestee.
2. Voluntary consent to search is given by a person who has standing to provide such consent.
3. Exigent circumstances exist in conjunction with probable cause to search. The exceptional circumstances must provide reason to believe that evidence of a crime exists that will be destroyed or otherwise unavailable for seizure. Law enforcement must not create the exigent circumstances to circumvent the requirement of obtaining a warrant.
4. A vehicle may be searched without a warrant if the vehicle was lawfully stopped and probable cause exists to search the vehicle for evidence. The probable cause can exist prior to the stop or be developed in the course of the stop and the officer may search the vehicle with the same scope and intensity as would be allowed if the officer obtained a search warrant. This includes the search of locked glove boxes, the trunk, and all closed containers if the evidence being sought could reasonably be found there in.

(b) When a search of a vehicle is conducted based on exigent circumstances, the search should be conducted at the scene. If the vehicle is impounded, the exigent circumstances no longer exist therefore a search warrant or consent must be obtained.

(c) The Oregon Court of Appeals in *State v. Custer* has raised certain questions regarding the authority of police departments in the state of Oregon to conduct inventory searches without outside judicial authority. The City of Springfield Common Council has adopted resolution 94-82 which authorizes such searches. All vehicles and items impounded and/or taken into police custody shall be searched and all property itemized.

(d) In addition to Federal and State case decisions, the Oregon Revised Statutes provide for the frisk of persons stopped by officers as described in ORS 131.625. An officer may frisk a stopped person for dangerous or deadly weapons if the officer reasonably suspects that the person is armed and presently dangerous to the officer or other person present. If in the course of the frisk, the officer feels an object which the officer reasonably believes is a dangerous or deadly weapon, the officer may take such action as is reasonably necessary to take possession of the weapon.

(e) A plain view search occurs when members are in a place where they have a lawful right to be and may seize evidence in plain view without a search warrant. A plain view seizure requires:

1. A justifiable intrusion onto the premises by the member;
2. The member observes the object in plain view from a lawful vantage point; and
3. The member has probable cause to seize the item observed.

*Search & Seizure*

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**42.6.1.4 SEARCH WARRANTS**

- (a) A valid search warrant is a written order of a court directing an officer to search a specified person or place for specific items named in the warrant. A valid search warrant may be directed toward persons, places and vehicles. A valid search warrant shall be dated and shall be addressed to and authorize its execution by a police officer. The warrant shall state or describe with particularity:
1. The identity of the judge issuing the warrant and the date the warrant was issued.
  2. The name of the person to be searched, or the location and designation of the premises or places to be searched.
  3. The things constituting the object of the search and authorized to be seized.
  4. The period of time, not to exceed five days after execution of the warrant within which the warrant is to be returned to the issuing authority.
- (b) A search warrant may not be issued absent one or more affidavits establishing probable cause.
- (c) The police legal advisor in the District Attorney's Office is available for legal assistance on a 24-hour basis by telephoning the police legal advisor.