



PAWNEE COUNTY SHERIFF'S OFFICE
SHERIFF DARRIN VARNELL

Policy # Motor Vehicles Stops/Searches	Related Policies: Biased-Based Policing, MVR
<i>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 The Pawnee County Sheriff's Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Oklahoma Statutes :	
CALEA Standard: 1.2.4	

- I. **Purpose:** The purpose of this policy is to direct deputies in their contacts with motor vehicles.
- II. **Policy:** The policy of The Pawnee County Sheriff's Office 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:**
 - A. **Motor Vehicle:** Any motorized vehicle that is capable of movement to include motor homes.
 - B. **Probable Cause:** (search): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement deputy to believe that evidence of crime exists and that the evidence exists at the place to be searched.
 - C. **Probable Cause:** (arrest): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement deputy 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.
 - D. **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 deputy to believe that criminal activity is afoot.

- E. 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 deputy to believe that a person who is lawfully stopped is in possession of a weapon.
- F. 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:

- A. Vehicle Stops-** Vehicles may be lawfully stopped under the following circumstances:
 - a. Reasonable Suspicion Based Stop-**where an deputy has articulated facts that support a belief that criminal activity is occurring and that a vehicle is involved the deputy may stop the vehicle to investigate further. The stop may continue as long as the deputy 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 Stopped-Traffic Violation-**where an deputy has probable cause to believe that a violation of the motor vehicle code has occurred may stop the vehicle and detain the vehicle for a reasonable amount of time while the citation is completed.
 - c. Probable Based Stop-Arrest/Search-**where an deputy 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 deputy 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 deputy 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 deputy has no power to force compliance with his or her attempt to contact in the consent situation.
- B. Ordering Persons from a Vehicle:** An deputy may order any occupant of a lawfully stopped vehicle to exit the vehicle during a lawful stop.
- C. Frisk of a Vehicle:** An deputy 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.
- D. 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, deputies 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 deputy 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. Unlocked containers within the vehicle may be searched irrespective of who the containers belong to.
 - f. The person of other occupants may not be frisked or searched simply because another person in the vehicle has been arrested.
- E. Consent Search of Vehicle:** An deputy 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 deputy is allowed to search as well as how long the search may last.
 - d. Under the rules of consent there is no requirement that deputies inform a person of their right to refuse the deputy'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.
- F. Probable Cause Searches of Vehicles (Carroll Doctrine/Motor Vehicle Exception to the Warrant Requirement/Mobile Conveyance Exception)** An deputy may, without a warrant, search a motor vehicle when the deputy can articulate probable cause to believe that the vehicle contains evidence of a crime or contraband subject to the following limitations:
- a. In cases where the vehicle was stopped or parked prior to contact by the police, the area where the vehicle is parked is not private property such that deputies 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. Deputies may search the entire vehicle unless the information known to the deputy indicates that the evidence or contraband is located in a specific place within the vehicle in which case the scope of an deputy's search would be limited to the specified area.
 - d. Deputies may only search those areas within the vehicle capable of containing the item being sought. For example, an deputy 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.

- G. Drug Sniffing Canine:** Where deputies 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. For example, if the vehicle was stopped for speeding, the canine would have to arrive and conduct the sniff in the time it would take to write the citation.
- 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. If the canine conducts a sniff in accordance with this policy and alerts on the vehicle, the deputy has probable cause and may conduct a probable cause search of the vehicle.
 - c. Putting a canine inside a vehicle is a search for 4th Amendment purposes and must not be done unless the deputy can support the search by probable cause to believe the vehicle contains contraband.
- H. Inventory Searches:** An inventory search is not a search for evidence or contraband and is not a search with an investigative purpose. The primary objective of these searches is to protect the property of persons whose vehicles are towed at the direction of law enforcement. These searches also have the objective of protecting law enforcement from false claims with respect to vehicles that are towed at the direction of law enforcement. Inventory searches are subject to the following limitations.
- a. All vehicles towed at the direction of an deputy of The Pawnee County Sheriff's Office, irrespective of the reason for the tow, shall be inventoried in accordance with this policy.
 - b. Deputies will note in their report any items of value that are within the vehicle.
 - c. If an item of extreme value is located within the vehicle and is removable, the deputy shall take the item for safekeeping and either turn the item over to the owner or, when that is not possible, take the item to The Pawnee County Sheriff's Office to be held for safekeeping in accordance with the provisions of the property and evidence policy.
- I. Community Caretaking Search:** Where deputies have reason to suspect that a vehicle contains a dangerous item, which, if left unattended will endanger public safety, the deputy may search the vehicle to remove the dangerous item for safekeeping. An deputy removing such an item should protect the owner's property interest by ensuring that the item is stored in accordance with agency procedures relating to property and evidence.