

Medina Police Department

Subject: Search, Seizure and Inventories of Vehicles	Policy Number: 2160	Vehicle Searches 2160
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Personnel: Sworn and Non-Sworn Personnel		
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2160.1 - GENERAL PURPOSE

These guidelines establish procedures for searches, seizures, and inventories of motor vehicles. Because seizures and inventories are treated differently as a matter of administration, they are made the subject of separate guidelines. A search is an examination of a person, place, motor vehicle, or any other thing with a view toward discovery of evidence (contraband, weapons, things used in committing a crime, loot, and other evidence of crime). A seizure involves taking the vehicle itself into custody. An inventory is an examination of a motor vehicle in police custody to account for objects in the vehicle for which the police are responsible.

The guidelines on searches are grouped in terms of common situations in which search opportunities arise. These may include when evidence is found in plain view or open view, when an arrest is made (either non-custodial, as in a minor traffic case, or, more typically, as in full-custody arrest), or when the suspect is taken to a detention facility. It may also include incidents where a search of an unoccupied vehicle is desired and the consent from the owner or driver is received.

The procedure contained in the guidelines attempt to maximize police efficiency in controlling crime while at the same time protecting persons from invasions of their privacy.

2160.2 - DEFINITIONS

Cash: Money in the form of bills or coins, traveler’s checks, money orders, checks or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates or other negotiable financial instruments.

Conveyance Device: A device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term “conveyance device” does not include property, which is in fact, itself stolen or taken in violation of the law.

Firearms/Ammunition/Firearm Accessories: A device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, firearms optics, suppression devices, cleaning supplies, etc.

Forfeiture: The process by which legal ownership of an asset is transferred to a government or other authority.

Jewelry/Precious Metals/Precious Stones: The term “precious metals/precious stones” includes items of jewelry, such as rings, necklaces, and watches that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium, and palladium. Precious stones, often referred to as gemstones, include, but are not limited to diamonds, emeralds, and rubies.

Forfeiture/Seized Property Reviewer: An Agency employee responsible for reviewing all forfeiture cases and is the liaison between the Agency and prosecutor’s office.

Seizure: The act of law enforcement officials taking property, including cash, vehicles, etc. that has been used in connection with or acquired by illegal activities.

2160.3 – SEIZED PROPERTY

A. Seized Property Subject to Administrative Forfeiture

The following property may be seized and is presumed under MN STAT 609.5314 to be subject to administrative forfeiture if the item has a retail value of \$50,000.00 or less:

1. All money, precious metals, and precious stones found in proximity to:
 - a. Controlled substances;
 - b. Forfeitable drug manufacturing or distributing equipment or devices;
or
 - c. Forfeitable records of manufacture or distribution of controlled substances.

All conveyance devices containing controlled substances with a retail value of \$500 or more if possession or sale of the controlled substance would be a felony under chapter 152.

2. All firearms, ammunition, and firearm accessories found:
 - a. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
 - b. On or in proximity to a person from whom a felony amount of controlled substance is seized; or
 - c. On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

Seizure of property not listed above must be processed in coordination and approved by the unit supervisor.

B. Processing Seized Property for Forfeiture Proceedings

1. When any property as described in the above section is seized, the peace officer making the seizure must prepare the following:
 - a. The proper Notice of Seizure and Intent to Forfeit Property form. This form must be completed to include the following: a list describing each item seized, the name of the individual served with the Notice, location, and the date of seizure. Administrative forfeiture notices are NOT to be given for assets seized under MN STAT 609.5314 of the retail value of the asset exceeds \$50,000.00;
 - b. A receipt for the item(s) seized.
2. The Notice form also contains information in English, Hmong, Somali and Spanish concerning the right to obtain judicial review and the procedure under MN STAT 609.5314 to follow to obtain it. The form must be dated and signed by the peace officer conducting the seizure. An agency case number must be included on the form. The individual from whom property is seized must be given an opportunity to sign the seizure notice form. If the person refuses, the peace officer conducting the seizure must check the appropriate box indicating the refusal to sign. If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the seizure form must be given to the individual served.
3. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.
4. The peace officer conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports to the Forfeiture/Seized Property Reviewer within 10 days of seizure.
5. The peace officer conducting the seizure shall inform the Forfeiture/Seized Property Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

C. Cash

1. Peace officers shall not seize cash having an aggregate value less than \$250.00, unless pre-recorded buy funds are included in the cash seized. Cash shall be recounted and the amount verified by another employee of the Agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved.
2. All forfeitable cash seized will be turned over to the Forfeiture/Seized Property Reviewer or property/evidence room as soon as practicably possible (Agency discretion) of the seizure.

3. Prior to deposit with the Forfeiture/Seized Property Reviewer, peace officers shall examine all cash seized to determine whether it contains any buy funds. Peace officers shall document the recovery of all buy funds and deposit those funds with the Forfeiture/Seized Property Reviewer to be returned to the appropriate unit's buy fund account.
4. Peace officers seizing cash shall also prepare a property inventory. If cash is seized from multiple individuals, a property inventory receipt will be completed for each individual. The property inventory receipt shall specify the total amount of cash seized from each individual. The Agency property inventory shall also contain a detailed description of all checks, money orders and/or travelers checks or other financial instruments.
5. The peace officer conducting the seizure shall provide a copy of the completed property inventory receipt to the Forfeiture/Seized Property Reviewer.
6. It is the seizing peace officer's responsibility to secure the cash consistent with the agency policy or procedure.

D. Jewelry/Precious Metals/Precious Stones

1. Peace officers seizing jewelry, precious metals, and/or precious stones will write a detailed description of each item on the property inventory receipt prior to inventorying the items. A copy of the property inventory receipt and any photographs of the jewelry, precious metals and/or precious stones shall be delivered to the Forfeiture/Seized Property Reviewer.
2. Peace officers seizing jewelry, precious metals, and/or precious stones shall deliver those items to the property/evidence room as soon as practicably possible.

E. Conveyance Device

1. Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency approved impound facility.
2. Peace officers shall inventory the conveyance device and its contents in accordance with agency policy. Peace officers shall also complete applicable report forms and distribute them appropriately.

F. Firearms/Ammunition/Firearm Accessories

When firearms, ammunition, or firearms accessories are seized, they shall be inventoried and delivered to the property/evidence room as per agency policy/procedure.

2160.4 - SEIZURE OF ITEMS IN PLAIN VIEW OR OPEN VIEW IN A VEHICLE

An officer may, without obtaining a search warrant, lawfully seize any item that the officer observes in plain view or open view (including items observed through the use of a flashlight) from a motor vehicle. The officer must have probable cause to believe that the item is contraband, a weapon, an item used to commit a crime, loot, or other evidence of crime. These five categories of evidence are, hereafter, referred to collectively as "seizable items".

If the vehicle is locked and keys are not available, the officer shall obtain instructions from a supervisor as to the method to be used to enter the vehicle.

2160.5 - SEARCHES CONNECTED WITH ARRESTS

A. Full-Custody Arrest

Whenever an officer makes a full-custody arrest of a person in a motor vehicle, the officer may conduct a full warrantless search of the arrested person's garments and the surface of the person's body in a manner designed to reveal the presence of seizable items. The officer may also conduct a warrantless search of those areas of the vehicle within which the arrested person might readily reach for a weapon or other seizable items at the time of the arrest. The search must be conducted at the time and place of arrest in the immediate presence of the arrested person. If incriminating items are found or probable cause otherwise develops, a wider search may be justified.

B. Stop Followed by Citation

A person who is "stopped" by an officer and then is given a warning or issued a citation, but who is not placed under full-custody arrest, should not be searched, nor should any vehicle used by such person be searched, unless the officer has consent or reasonably suspects the person to be armed. In that case, the officer may "frisk" the person and vehicle for weapons.

C. Wider Search When Probable Cause Exists to Believe Seizable Items are in Vehicle

1. When Permitted

Whenever a full-custody arrest is made of a person in a motor vehicle or of a person in close proximity to a motor vehicle from which the person has just departed or is about to enter, and the arresting officer has probable cause to believe that the vehicle contains seizable items, the vehicle may be searched without a warrant for those items as soon as practicable.

2. Scope of the Search

An officer making a motor vehicle search may search only those areas of the vehicle that could physically contain the evidence sought.

3. Manner of the Search

Whenever possible, an officer shall open a locked trunk or glove compartment by means of a key rather than by force. If keys are not available, instructions shall be obtained from a supervisor as to the method to be used in opening the locked trunk or glove compartment.

4. Time and Place of the Search

It is not necessary to keep the prisoner near the vehicle during this type of search. Searches should be conducted at the scene of the arrest as soon as the prisoner is placed in secure custody. In those cases when it is not feasible to conduct the search at the scene of the arrest (e.g., hostile crowd, bad weather, heavy traffic, absence of needed equipment or unavailability of keys), the vehicle shall be secured in police custody at all times until it is searched and the search shall be conducted as soon as practicable.

Once a vehicle has been taken into police custody, a search warrant should be obtained before the vehicle is searched.

5. Search of Vehicle Passengers

If, following a search of a motor vehicle as describe above, the officer has not found the seizable item sought, the occupants of the vehicle may be searched if:

- a. The items sought could be concealed on the person; and
- b. There is reason to suspect that a passenger has the item. This search may be made even though the officer does not have probable cause to arrest the passenger.

6. "Frisk" of Vehicle Passengers

If the officer reasonably suspects that a passenger in the motor vehicle is armed, the officer may "frisk" that person for weapons.

D. Use of Search Warrant

When special circumstances exist, a search warrant should be obtained before searching a vehicle in connection with an arrest.

1. Special Circumstances: Arrest and Search of Vehicle Pre-Planned

A search warrant should be obtained when there is adequate time to obtain the warrant before the arrest of suspects and it is anticipated that the "target" vehicle specified will be at the location where the arrest and search will occur.

2. Special Circumstances: Ease of Obtaining Warrant

A search warrant should be obtained when the "target" vehicle has come into police custody and can be readily secured while the warrant is sought and delaying the search will not be detrimental to the investigation.

3. Special Circumstances: Immovable Vehicles

A search warrant should be obtained when:

- a. The vehicle does not appear to be movable or easily rendered movable by minor repairs,
- b. The vehicle is on private property; and
- c. The officer concludes there is adequate time in which to obtain a search warrant before the vehicle is moved or the seizable items removed.

E. Searches of Vehicles not Connected With an Arrest

If an officer has probable cause to believe that a vehicle, either locked or unlocked, contains seizable items, all those areas of the vehicle which could contain such items may be searched without a search warrant unless:

1. The vehicle does not appear to be movable or easily rendered movable by minor repairs; and
2. The officer concludes there is adequate time in which to obtain a search warrant before the vehicle is moved or the seizable items removed. In those circumstances, a search warrant must be obtained.

F. Consent Searches of Motor Vehicles

Whenever an officer desires to make a motor vehicle search not authorized by these guidelines and is unable to obtain a search warrant, the officer may request consent to search from the person(s) in control of the vehicle. No consent search may be made unless the officer has received from the person a voluntary and unequivocal consent to search the vehicle. Officers should make every attempt to record the consent.

2160.6 - SEIZURES OF MOTOR VEHICLES

A motor vehicle is "seized" or "impounded" when officers take custody of it and either remove it to a police facility or arrange its removal to a private storage facility. An "inventory" is an administrative process by which items of property in a seized vehicle are listed and secured. An inventory is not to be used as a substitute for a search. Vehicles coming into custody of the police department shall be classified for purposes of these guidelines into six categories: seizures for forfeiture; seizures as evidence; prisoner's property; traffic impoundment; abandonment; and other non-criminal impoundment. The procedures for carrying out the seizure, the need for a warrant, the right to search or inventory a vehicle, and the time and scope of any such inventory depend upon how the vehicle is classified.

2160.7 - SEIZURES FOR FORFEITURE: VEHICLE USED ILLEGALLY

A. Necessity for Search Warrant

An officer shall obtain a search warrant prior to making a "seizure for forfeiture" whenever the vehicle to be seized is on private property and it is not likely that the vehicle will be removed or tampered with while a warrant is being obtained. This is the only situation in which a search warrant is necessary for a "seizure for forfeiture".

B. Inventory Procedure

An officer who seizes a vehicle for forfeiture shall completely inventory the contents under 2160.5 immediately upon its arrival at a police facility. Upon completion of the inventory, the officer shall obtain instructions from a superior relating to appropriate further processing of the vehicle. A vehicle impound sheet will be filled out with an itemized list of the vehicle's contents. The impound sheet should be attached to each copy of any report completed.

2160.8 - SEIZURES OF EVIDENCE

A. When Permitted

When an officer has probable cause to believe that a vehicle has been stolen or used in a crime or is otherwise connected with a crime, the vehicle may be taken into custody and classified as a "seizure of evidence".

B. Exception for Minor Traffic Offenses

A vehicle involved in a minor traffic offense shall not be seized as evidence merely because it was used to commit the traffic offense.

C. Necessity for Search Warrant

An officer shall obtain a search warrant prior to making a "seizure as evidence" whenever the vehicle to be seized is on private property and it is not likely to be removed or tampered with while a warrant is being obtained. This is the only situation in which a search warrant is necessary for a "seizure as evidence".

D. Inventory and Release Procedures

A vehicle seized as evidence shall be completely inventoried as soon as practicable, unless such an inventory might damage or destroy evidence.

An itemized list of the vehicle's contents should be attached to each copy of any report completed. Vehicles seized as evidence shall not be released to any person until the appropriate prosecutor or other official has authorized a release. The vehicle should be returned to such person on an expedited basis.

2160.9 - PRISONER'S PROPERTY

A. Definition

When a person is arrested in a vehicle which that person owns or has been authorized to use, and the vehicle is not otherwise subject to seizure, it shall be classified as "prisoner's property".

B. Disposition of Prisoner's Property

The vehicle should be impounded to the local towing company utilized by the Medina Police Department for safe keeping. Any observable items of value should be inventoried and noted on the impound sheet.

If the vehicle is found to be the property of a person having no criminal involvement in the offense, such person shall be notified of the location of the vehicle as soon as practicable.

2160.10 - TRAFFIC OR PARKING REMOVALS

When an officer causes a vehicle to be removed to a location off a public street for non-criminal reasons, it should be impounded to the local towing company utilized by the Medina Police Department for safe keeping.

2160.11 - OTHER NON-CRIMINAL IMPOUNDMENTS

A. Definition

When an officer takes a vehicle into police custody because there is reason to believe that it is part of the estate of a deceased person, or the property of an insane person or of a person taken to the hospital, or because it is property turned over to the police at the scene of a fire or disaster, it shall be classified as a "non-criminal impoundment."

B. Procedure Upon Non-Criminal Impoundment

If an unlocked vehicle is impounded under this guideline, the impounding officer shall remove from the passenger compartment all containers (such as boxes or suitcases) and items of value which are likely to be tampered with or stolen.

Containers shall not be opened; however, they will be sealed to ensure the security of their contents. After removing any such property from the passenger compartment, the officer shall inventory the property, make all necessary entries and returns, and place the property in the trunk of the vehicle. The sole purpose for opening the trunk is to store the personal property therein.

The officer shall close all windows and lock the doors and the trunk. The keys for the vehicle shall be taken to the station and properly labeled and stored. No other inventory or search or search of the vehicle shall be made unless subsequent events indicate that the vehicle should be reclassified as abandoned.

2160.12 - PROCEDURE FOR VEHICLE CONTENTS INVENTORY

Whenever an officer is authorized (refer to different categories to determine extent of authorized inventory) to inventory a vehicle under these guidelines, the passenger compartment, glove compartment, trunk, and other storage compartments, such as console and dashboard compartments, or ash trays which may be infinitely varied by automobile designers, may be examined whether or not locked. Areas not included are gas tanks, fluid reservoirs, or structural cavities not likely to be used to store personal effects.

Immediately upon completion of the inventory, the officer shall, if possible, roll up the windows and lock the doors and the trunk.

2160.13 - WHEN FOREGOING GUIDELINES MAY BE DISREGARDED

Whenever it appears that any of the foregoing guidelines should be modified or disregarded because of special circumstances, specific authorization to do so should be obtained from the County Attorney's Office.

2160.14 – CASE FILE STATUS/REPORT WRITING

A. Case File Status

The Forfeiture/Seized Property Reviewer shall forward all changes to forfeiture status to the supervisor who initiated the case.

B. Report Writing

1. Peace officers seizing property must complete a report. All reports must include a description of the items seized, where the property is turned in/stored, in the name of the individual served, the date that the seizure form was served, the name of the serving peace officer, and whether or not the individual signed the Notice of Seizure and Intent to Forfeit Property form.
2. All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible.