Policy# 1.4 **Motor Vehicles Stops/Searches**	Related Policies: Biased-Based Policing
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 State Statutes:	
KACP Accreditation Standard: **1. 4**	
Date Implemented: 09/15/2016	Review Date:

I. **Purpose:** The purpose of this policy is to direct officers in their contacts with motor vehicles.

II. **Policy:** 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:**

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 officer 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 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.

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 officer 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 officer 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.

g. **GPS (Global Positioning System)** as used on this policy such device would include any mechanism either built-into or attached to the vehicle which allows a member of this agency to obtain data relating to the vehicle's location.

IV. **Procedures:**

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

   i. 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.

   ii. Probable Cause based Stopped-Traffic Violation-where an officer 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.

   iii. Probable 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.

   iv. 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.

b. **Ordering Persons from a Vehicle:** An officer may order any occupant of a lawfully stopped vehicle to exit the vehicle during a lawful stop.

c. **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:

   i. The search is limited to subject's immediate area of control which would be the passenger compartment of the vehicle.

   ii. 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, officers may search the vehicle incident to arrest subject to the following limitations:

   i. The arrest must be lawful and must be a full-custodial arrest.

   ii. The search must take place at the time of the arrest.

   iii. 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.

   iv. The search incident to arrest is limited to the arrestee's immediate area of control (passenger compartment only) but is a thorough search.

   v. Unlocked containers within the vehicle may be searched irrespective of who the containers belong to.

   vi. 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 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:

i. The Consent must be voluntary

ii. 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.

iii. 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.

iv. 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.

f. **Probable Cause Searches of Vehicles (Carroll Doctrine/Motor Vehicle Exception to the Warrant Requirement/Mobile Conveyance Exception)** 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 subject to the following limitations:

i. 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 officers would have to obtain a warrant to gain access to the property itself.

ii. 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.

iii. 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.

iv. 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.

g. **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. 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.

i. 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.

ii. If the canine conducts a sniff in accordance with this policy and alerts on the vehicle, the officer has probable cause and may conduct a probable cause search of the vehicle.

iii. 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.

h. Use of GPS: Prior to installing GPS or obtaining data from a factory installed GPS system to obtain data related to a citizen's vehicle location, a search warrant shall be obtained for the installation and/or retrieval of data unless there are articulable exigent circumstances which would justify the immediate installation or retrieval of data i.e. kidnapping suspect vehicle.

i. **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.

i. All vehicles towed at the direction of an officer of this agency, irrespective of the reason for the tow, shall be inventoried in accordance with this policy.

ii. Officers will note in their report any items over $50 of value that are within the vehicle.

iii. All compartments in the vehicle which the officer has access to, including those areas which the officer can open with a key or by activating a lock to the unlock position, without causing damage shall be searched. This includes, the trunk, glove compartment or containers of any type that are present within the vehicle at the time of the tow.

iv. If an item of extreme value is located within the vehicle and is removable, the officer shall take the item for safekeeping and either turns the item over to the owner or, when that is not possible, take the item to the department to be held for safekeeping in accordance with the provisions of the property and evidence policy.

j. 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.