

	<h1>Garner Police Department</h1> <h2>Written Directive</h2>	
	Chapter: 800 - Operations	
	Directive: 810.08 – Searches and Planned Operations	
Authorized by: Chief Brandon Zuidema		Effective Date: October 1, 2015
CALEA Standards: 1.2.4, 43.1.5		Last Revision: October 1, 2014

810.8.1 - Purpose

The purpose of this directive is to establish policy, procedures, and guidelines for the execution of searches, search warrants, and planned operations. The Fourth Amendment of the Constitution of the United States regulates searches and seizures of persons and property. It is imperative that officers conduct such actions in a lawful manner, acting as a reasonably cautious and prudent officer would act based on his training and experience.

810.8.2 - Policy

It is the policy of the Garner Police Department to conduct all searches and related law enforcement actions in accordance with the law and Department policy.

810.8.3 - Definitions

Case Agent – An officer designated by the Incident Commander with primary responsibility for meeting the legal requirements related to the execution of a search warrant. This is typically the investigator or officer who obtained the search warrant and/or has a familiarity with the case being investigated.

Consent - Means a statement to an officer, made voluntarily and in accordance with the requirements of N.C.G.S. 15A-222, giving the officer permission to conduct a search.

Consent Search - A search conducted by an officer based on voluntary consent.

Incident Commander – The Department supervisor with responsibility for the planning and execution of a search warrant.

Planned Operation - An operation designed to accomplish a police objective such as the search of a premises, the arrest of a person(s), and/or the seizure of property. Such an operation is normally conducted with an elevated state of security and speed due to the inherent dangers involved.

Premises – Any structure, including but not limited to a building, residence, or storage facility that may be subject to a search warrant.

Search Warrant - A court order and process directing a law enforcement officer to search a designated premises, vehicle(s), and/or person(s) for the purpose of seizing designated items and accounting for any items so obtained to the Court which issued the warrant as authorized in N.C.G.S. 15A-241.

810.8.4 - Consent Searches (1.2.4)

A. The consent to search a person, vehicle or premises must be given by:

1. The person to be searched,
 2. The registered owner of a vehicle to be searched or by the person in apparent control of its operation and contents at the time the consent is given, and/or
 3. A person who by ownership or otherwise is reasonably allowed to give or withhold consent to a search of a premises as required in N.C.G.S. 15A-222.
- B. A search conducted by consent may not exceed, in duration or physical scope, the limits of the consent given.
- C. The person consenting to the search may, at any time during the search, withdraw consent. It is not required that officers advise them of the right to withdraw consent. If consent is withdrawn, the search shall stop immediately unless probable cause to search has been established and exigent circumstances exist.
- D. Documentation of consent
1. Officers shall use mobile recording devices (in-car camera systems) whenever available to document an officer's verbal request for consent and the individual's granting (or refusal) of voluntary consent to search.
 2. Officers may also utilize GPD form 810.8-A, *Consent to Search Waiver*, to document voluntary consent obtained from individuals. Officers should use this form to document voluntary consent as needed based on each interaction's specific circumstances.

810.8.5 - Obtaining Search Warrants

- A. A Department supervisor must approve any application for a search warrant prior to the application being submitted to a magistrate or other court official.
- B. Search warrant affidavits must comply with the requirements of N.C.G.S. 15A-244, and therefore must contain the following:
1. The name and title of the applicant;
 2. A statement that there is probable cause to believe that items subject to seizure under N.C.G.S. 15A-242 may be found in or upon a designated place, vehicle, or person;
 3. Affidavits specifically setting forth the facts and circumstances establishing probable cause that items are in the places or in possession of the individuals to be searched; and
 4. A request that the courts issue a search warrant directing a search for and the seizure of the items in question.
- C. In preparing the affidavit, the officer is to verify the address and/or vehicle or suspect description, conduct surveillance or utilize other means of corroboration, and take other reasonable measures to ensure the accuracy of the information.

810.8.6 –Execution of a Search Warrant

- A. Prior to the execution of a search warrant for a premises, the following shall occur:
1. A Department supervisor will be designated as the Incident Commander for the execution of the search warrant. The Incident Commander will be the ultimate authority over and have responsibility for all aspects of the execution of the search warrant.

2. The Incident Commander will designate one officer involved in the investigation as the Case Agent for the execution of the search warrant.
3. The Incident Commander shall consult with the Tactical Commander if any of the following circumstances warrant the use of SRT to serve the search warrant:
 - a. Any history of violence and/or weapons use or possession by any persons known or suspected to be present;
 - b. Any expectation of resistance from the resident(s) or others who may be present;
 - c. The known or suspected presence of firearms or other weapons; and/or
 - d. Any other specific intelligence that would justify SRT involvement.
4. If it is determined that SRT should serve the search warrant, permission must be obtained from the Operations Captain or designee (or by the Chief of Police in the absence of the Operations Captain or designee) in accordance with policies outlined in GPD Directive 810.03 - *Tactical Operations*.
 - a. Once approved, the Tactical Commander will assume the role of Incident Commander up through the execution of the search warrant and securing of the premises.
 - b. If it is determined that SRT assistance is not warranted, the designated Incident Commander will proceed with planning for all aspects of the search warrant execution and the subsequent search.
5. The Case Agent will be responsible for ensuring the following intelligence is gathered:
 - a. The address, description, and layout of the premises (if known);
 - b. The person(s) and/or item(s) to be searched for;
 - c. Descriptors, cautions, and any criminal charges for the suspect(s); and
 - d. Any known or suspected hazards at or related to the premises to be searched.
6. The Incident Commander will be responsible for securing additional resources from outside the Department as necessary based on the circumstances of the search warrant execution.
7. The Incident Commander will be responsible for making personnel assignments including, but not limited to, the following:
 - a. Outer perimeter – to restrict access to the area surrounding the premises to only authorized personnel;
 - b. Entry points – to restrict access to the premises to only authorized personnel;
 - c. Entry team – to enter and secure the premises;
 - d. Searchers – to search the premises as authorized by the search warrant;
 - e. Evidence handler(s) / recorder(s) – to receive, record, and submit all evidence seized by the searchers in accordance with GPD Directive 510.01 – *Evidence and Property Submission*; and

- f. Custody and Transport Personnel – to maintain custody of and/or transport arrestees.
8. A briefing shall be held for all personnel assigned to execute the search warrant and/or conduct the subsequent search (Note – if SRT is executing the warrant the team will normally conduct a team briefing strictly for team members prior to the full briefing to discuss their specific responsibilities). The following information shall be presented at the briefing:
 - a. All intelligence gathered as outlined in A.3 above;
 - b. Primary and secondary means of communication;
 - c. Tentative time for deployment to the staging area(s) and for execution of the search warrant;
 - d. Any other information relevant to executing the search warrant and/or maintaining officer safety.
- B. The Incident Commander or another Department supervisor will be present for the execution of any search warrant of a premises (if the Tactical Commander is serving as the Incident Commander another Department supervisor must be present). It will be the supervisor's discretion as to whether a supervisory presence is required once the premises is secured and the search has begun.
 - C. All sworn personnel participating in the execution of a search warrant of a premises that are not in uniform will display their badge of authority, will wear their issued body armor and will wear a body armor carrier and/or jacket displaying the word "POLICE."
 1. At least one uniformed officer shall be present for the execution of any search warrant of a premises.
 2. Plain-clothes personnel conducting the search may remove their issued body armor once the premises has been deemed secure after the execution of the search warrant.
 - D. The officer(s) executing the search warrant shall adhere to the following guidelines:
 1. Before entering the premises, the officer shall give clear notice of his identity and purpose to the person to be searched or the person in apparent control of the premises to be searched.
 2. If it is unclear if anyone is present at the premises to be searched, the officer must give notice in a manner that is likely to be heard by anyone present as required in N.C.G.S. 15A-249.
 3. Officers may make forcible entry into premises or vehicles when necessary for the execution of a search warrant as authorized in N.C.G.S. 15A-251.
 4. Officers may make an immediate, unannounced (i.e. "No Knock") entry only when there is probable cause to believe that the giving of notice would endanger the life or safety of any person, including Department personnel. There are no legal provisions for "No Knock" entries in North Carolina solely for the purpose of protecting evidence.
 5. Entry shall be conducted and documented in compliance with the policies and procedures of the Department.
 - E. Before beginning any search or seizure pursuant to a search warrant, the case agent shall read the warrant and give a copy of the warrant application and affidavit to the person to be searched or the person in apparent control of the premises or vehicle to be searched.

1. This is not intended to prohibit the clearing of a premises for the purpose of locating additional persons or other threats.
 2. If no one in apparent and responsible control is occupying the premises or vehicle, the officer must leave a copy of the warrant attached to the premises or vehicle in accordance with the requirements of N.C.G.S. 15A-252.
- F. The scope of the search may be only what is authorized by the warrant and is reasonably necessary to discover the items specified in the warrant. Upon finding the items specified in the warrant, the officer must take possession or custody of them. If during the search the officer inadvertently discovers items which are subject to seizure but are not specified in the warrant he may take possession of these items as authorized in N.C.G.S. 15A-253.
- G. At the conclusion of the search, the following shall occur:
1. The premises will be left in as orderly a condition as practical based on the nature of the search being conducted. Any damage resulting from the entry into or search of the premises will be documented in the incident report.
 2. The case agent will complete an inventory of all items seized and will write and sign a receipt itemizing the property/evidence seized;
 - a) If items are seized from a person, then a receipt must be given to that person;
 - b) If the items are seized from the premises or a vehicle, the receipt must be given to:
 - 1) The owner; or
 - 2) The person in apparent control of the premises or vehicle; or
 - 3) If no person is present, the receipt will be affixed in a secure manner inside the premises or vehicle.
 - c) All evidence and seized property will be submitted in accordance with Department policy.
 3. The case agent will turn over control of the premises or vehicle to the owner or person in apparent control or will secure the premises or vehicle to the best of their ability if left unattended.
 4. The search warrant must be returned to the issuing court without unnecessary delay. The warrant must be signed and sworn to by the officer who executed the warrant and must have a written inventory of any items seized attached to it.
- H. Search warrants must be executed within 48 hours from the time they are issued. Any warrant not served within this time must be marked "not executed" and returned without unreasonable delay to the Clerk of Court of the issuing court.

810.8.7 - Detention and Search of Persons (1.2.4)

- A. An officer executing a search warrant of a premises may conduct an external frisk of any person present:
1. If he reasonably believes that his safety or the safety of others is at risk (N.C.G.S. 15A-255); or
 2. If the premises is a private premises and there is probable cause to believe that it is a place where illegal narcotics are bought and sold.

- B. An officer executing a search warrant for a premises not generally open to the public or for a vehicle (other than a common carrier) may detain any person present the time reasonably necessary to execute the search warrant (N.C.G.S. 15A-256).
- C. If the item(s) listed in the search warrant is unique and is not found on the premises or in the vehicle being searched, any person present at the time of the execution of the search warrant may be searched so long as the item is of a size, contour, and mass to be concealable upon a person (N.C.G.S. 15A-256).
- D. If the item(s) listed in the search warrant is not unique (i.e. “drugs” or “a firearm”), any person present at the time of the execution of the search warrant may be searched so long as the item is of a size, contour, and mass to be concealable upon a person.

810.8.8 - Entering Premises with an Arrest Warrant

- A. An officer may enter the private premises of or a vehicle owned by the person named in an arrest warrant to affect an arrest when:
 - 1. The officer has in his possession a warrant for arrest of a person or is authorized to arrest a person without a warrant having been issued, and
 - 2. The officer has probable cause to believe the person to be arrested is present and the officer has given or made reasonable effort to give notice of his authority and purpose to any occupant therein, unless there is reason to believe that giving such notice would present a clear danger to human life.
- B. Before entering the premises of a person other than the one named in the warrant to affect an arrest, an officer must have one of the following:
 - 1. Consent of the owner or a resident of the premises; or
 - 2. A search warrant describing the premises and the person sought; or
 - 3. Exigent circumstances making the obtaining of a search warrant impractical.

810.8.9 - Exceptions to the Search Warrant Requirement (1.2.4)

- A. Officers may enter a private premises without a warrant or voluntary consent for the following purposes when the specific circumstances required herein exist:
 - 1. To arrest a person in the premises if there is probable cause to arrest the person sought, there is probable cause to believe the person sought is physically present in the premises at the time of entry and:
 - a. There is probable cause that someone is reasonably likely to be killed or seriously injured unless immediate action is taken; or
 - b. A serious or dangerous criminal offender is likely to escape apprehension unless immediate action is taken; or
 - c. An arrest has been set in motion outside by a person who has committed a serious misdemeanor or felony and who flees inside the premises (known as “hot pursuit”).
 - 2. To preserve evidence when there is probable cause to believe that critical evidence of a serious and/or dangerous offense is located within the private premises and that the evidence is reasonably likely to be destroyed or removed unless immediate action is taken.

- a. Officers may enter to “secure and freeze” the premises. The officers may secure those present and make a protective sweep of the premises where persons may be concealed.
 - b. Once the premises are secured, no further search shall be conducted unless:
 - 1) A search warrant for the premises is on the scene; or
 - 2) Consent to search has been obtained; or
 - 3) New or additional emergency circumstances necessitate an additional warrantless search or protective sweep.
3. To secure a crime scene where an officer has probable cause to believe a crime has been committed and the perpetrator(s) and/or victim(s) is within.
- a. Officers may enter the premises to:
 - 1) Locate and secure perpetrators, and/or
 - 2) Provide assistance to anyone injured or requiring emergency assistance.
 - b. Once this assistance has been completed, no further search will be conducted unless:
 - 1) A search warrant for the premises is on the scene, or
 - 2) Consent to search has been obtained, or
 - 3) New or additional emergency circumstances necessitate an additional warrantless search or protective sweep.
4. If it reasonably appears that action is urgently necessary to:
- a. Prevent death or serious physical injury,
 - b. Provide emergency medical assistance, or
 - c. Guard against the impending threat of substantial property damage.

Note: Officers may use force to gain entry when necessary in a warrantless entry; notification of impending forced entry should be given to a supervisor whenever practical.

- B. Officers may search a vehicle without a search warrant or voluntary consent when any of the following circumstances exist:
1. When probable cause exists to obtain a search warrant but evidence will disappear, be lost, or be destroyed if time is taken to obtain the search warrant (i.e. exigent circumstances exist); or
 2. When probable cause exists to obtain a search warrant and the vehicle is in a public place, even if emergency or exigent circumstances do not exist, as authorized by the United States Supreme Court in *Carroll vs. U.S.* (i.e. the Carroll Doctrine); or
 3. When probable cause exists to search the entire vehicle for evidence of a crime, it may be searched in its entirety, including all containers therein, open or closed, locked or unlocked, so long as the item(s) being searched for could be concealed within the container.

4. In accordance with *Arizona v. Gant*, officers may search a vehicle incident to arrest only under the following conditions:
 - a. When probable cause exists that evidence relevant to the crime of arrest exists in the vehicle; or
 - b. When reasonable suspicion exists that a person whether or not an arrestee, is dangerous and might access the vehicle to gain immediate control of weapons (commonly known as a car frisk; or
 - c. When conducting a vehicle inventory search (as outlined in 810.8.12).

810.8.10 - Conducting Planned Operations (43.1.5)

- A. Planned operations involving entry, forced or otherwise, to a premises or other area(s) may be conducted in order to accomplish a police objective. Any planned operation shall be approved by the Operations Captain or designee (or by the Chief of Police in the absence of the Operations Captain or designee).
- B. The Operations Captain or designee will appoint a supervisor to serve as the Incident Commander for any planned operation. The Incident Commander will be the ultimate authority over and have responsibility for all aspects of the execution of the search warrant.
- C. Prior to a planned operation being conducted, the following shall occur:
 1. The Incident Commander will designate one officer involved in the investigation as the Case Agent for the planned operation.
 2. The Incident Commander shall consult with the Tactical Commander if any of the following circumstances warrant the use of SRT to serve the search warrant.
 - a. Any history of violence and/or weapons use or possession by any persons known or suspected to be present;
 - b. Any expectation of resistance from the resident(s) or others who may be present;
 - c. The known or suspected presence of firearms or other weapons; and/or
 - d. Any other specific intelligence that would necessitate SRT involvement.
 3. If it is determined that SRT should serve the search warrant, permission must be obtained from the Operations Captain in accordance with policies outlined in GPD Directive 810.03 - *Tactical Operations*.
 - a. Once approved, the Tactical Commander will assume the role of Incident Commander up through the execution of the search warrant and securing of the premises.
 - b. If it is determined that SRT assistance is not warranted, the original Incident Commander will proceed with planning for all aspects of the search warrant execution and the subsequent search.
 4. The Incident Commander will be responsible for securing additional resources from outside the Department as necessary based on the circumstances of the planned operation.

5. The Incident Commander will be responsible for making personnel assignments including, but not limited to, the following:
 - a. Outer perimeter – to restrict access to the area surrounding the premises to only authorized personnel;
 - b. Entry points (if applicable) – to restrict access to the premises to only authorized personnel;
 - c. Entry team – to enter and secure the premises;
 - d. Searchers (if applicable) – to search the premises as authorized by the search warrant;
 - e. Evidence Handler(s) / Recorder(s) (if applicable) – to receive and record all evidence seized by the searchers; and
 - f. Custody and Transport Personnel – to maintain custody of and/or transport arrestees.
6. A briefing shall be held for all personnel assigned to conduct the operation (Note – if SRT is executing the warrant the team will normally conduct a team briefing strictly for team members prior to the full briefing to discuss their specific responsibilities). The following information shall be presented at the briefing:
 - a. All intelligence gathered as outlined in C.3 above;
 - b. Primary and secondary means of communication;
 - c. Tentative time for deployment to the staging area(s) and for conducting the operation;
 - d. Any other information relevant to conducting the operation and/or maintaining officer safety.
- D. The Incident Commander or another Department supervisor will be present when any planned operation is conducted (if the Tactical Commander is serving as the Incident Commander another Department supervisor must be present).
- E. All sworn personnel participating in a planned operation that are not in uniform will display their badge of authority, will wear their issued body armor and will wear a body armor carrier and/or jacket displaying the word "POLICE." At least one uniformed officer shall be present when a planned operation is conducted.

810.8.11 - Searches Related to Investigative Detentions by Officers (1.2.4)

- A. An officer may seize an individual for the purpose of conducting an investigative detention if the seizure is based on reasonable suspicion that criminal activity involving the individual is afoot.
- B. A seizure is an investigative detention and not an arrest if;
 1. It is brief, usually lasting less than 20 minutes; and
 2. The individual is not moved involuntarily (except short distances for legitimate safety and/or security purposes); and
 3. Any force used is reasonable given the circumstances and is limited to the minimum amount necessary to detain the individual safely; and
 4. A reasonable person in the individual's position would not believe he is under arrest (i.e. in custody and not free to leave) based upon the totality of the circumstances.

- C. Officers are authorized to stop and frisk individuals for weapons under those circumstances where the officer has reasonable suspicion that the person is armed and the officer fears for his safety or the safety of others.

810.8.12 – Vehicle Inventory Searches (1.2.4)

- A. All vehicles seized or impounded by or towed at the direction of the Garner Police Department shall have a complete inventory search conducted at the time of the impoundment or towing.
1. Inventory searches are conducted under the community caretaking function of a law enforcement agency.
 2. The purpose of the inventory search is to protect property by reducing the risk of damage and/or theft, reduce liability against false claims of loss, and ensure vehicles stored within the department's custody do not contain hazardous materials or compromise the safety of any town personnel.
- B. Inventory Search Procedures
1. The inventory search will include the passenger compartment, trunk, and/or pickup bed area.
 - a. Locked, sealed, or closed containers such as suitcases, packages, or boxes will be opened when the contents cannot be determined from an examination of the container's exterior. However, locked or sealed items shall not be forcibly opened in order to inventory the contents if doing so will cause damage to the container.
 - b. The vehicle trunk and/or interior compartments shall be inventoried if keys are available to gain access to them. These areas will not be forcibly opened in order to inventory their contents.
 2. All currency and firearms and any item of a unique nature will be removed and stored in the department's property and evidence system in accordance with GPD directive 510.01 - *Evidence and Property Submission*.
 3. All contraband (illegal drugs, stolen property, etc.) will be removed and stored in the department's property and evidence system in accordance with GPD directive 510.01 - *Evidence and Property Submission*.
 4. Any time that an inventory search is conducted, the search results (to include any items of apparent value identified or the fact that nothing of apparent value was identified) and any items seized will be documented on a Department report. If a report would not normally be completed for the incident (i.e. in the case of a vehicle crash), a Call For Service (CFS) report shall be completed to document the inventory search.
- C. Under no circumstances shall a vehicle inventory be used as a means to circumvent legal or policy requirements for conducting a search of a vehicle.

810.8.13 – Vehicle Seizure / Impoundment (1.2.4)

- A. Officers may seize vehicles under the following criteria:
1. When the vehicle constitutes evidence of a criminal offense;
 2. When the vehicle is used in the commission of the following offenses which are subject to forfeiture:

- a. G.S. 14-2.3 – Motor vehicles acquired through the commission of other felonies.
 - b. G.S. 14-86.1 – Motor Vehicles used to transport stolen property (larceny when the value of goods are more than \$2000.00) or used in the commission of a robbery.
 - c. G.S. 14–299 – Motor vehicles exhibited by gamblers in conduction unlawful games or lotteries.
 - d. G.S. 18B-504 - Violations involving the transportation of non-tax paid alcoholic beverages
 - e. G.S. 20-141.3.(g) – Prearranged speed competition in a motor vehicle.
 - f. G.S. 90-112 - Felony violations concerning the sale, delivery, or manufacture of controlled substances.
3. When the vehicle is subject to mandatory seizure under the N.C.G.S. DWI Statutes.
- B. Any vehicle that is seized in accordance with this policy shall be searched for the purpose of conducting an inventory as outlined in section 810.8.12 above. Additionally, seized vehicles (with the exception of DWI seizures) will be subject to the following:
1. All currency and firearms and any item of a unique nature will be removed and stored in the department's property and evidence facility in accordance with GPD directive 510.01 - *Evidence and Property Submission*.
 2. All contraband (illegal drugs, stolen property, etc.) will be removed and stored in the department's property and evidence system in accordance with GPD directive 510.01 - *Evidence and Property Submission*.
 3. All hazardous materials will be removed and will be handled and stored in accordance with GPD directive 510.01 - *Evidence and Property Submission*.
 4. Once the inventory has been completed, the officer shall place evidence tape on the door seals. This will ensure that no one has entered the vehicle after the inventory was complete unless authorized by a supervisor or the Quartermaster.
 5. All items removed and stored and all items of value identified in the inventory search will be documented on an incident or a CFS report.
- C. Any vehicle that is seized as a DWI seizure will be towed and stored by a state-authorized towing company at the company's storage facility.
- D. Any vehicle that is seized for forfeiture or investigative purposes will be secured according to the following guidelines;
1. An agency-authorized towing company will be utilized to have the vehicle removed to the Public Works Facility located at 610 Rand Mill Rd.
 2. An officer will accompany the towing service inside the gated area of the Public Works facility and will ensure that the vehicle is secured in the Department's designated storage area.
 3. All such seized vehicles will be documented on the agency's Property and Evidence submission form in accordance with GPD directive 510.01 - *Evidence and Property Submission*. The officer shall also submit the keys into evidence to ensure proper chain of custody.