

Chart of Vehicle Searches

| Method | Notes |
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| Consent (no warrant) | Requirements for warrantless exception: 1) expectation of privacy by the person consenting; 2) consent must be voluntarily given; and 3) scope of consent must encompass place searched [<i>Schneckloth v. Bustamonte</i> , 412 U.S. 218 (1974)]; see also <i>U.S. v. Mendoza-Gonzales</i> , 318 F.3d 663 (5th Cir. 2003) (consent to search 18-wheeler trailer included opening sealed boxes, without driver limiting scope)]. |
| Automobile exception (no warrant) | <ul style="list-style-type: none"> • Requirements for warrantless exception: 1) probable cause that contraband is in vehicle; and 2) vehicle is readily mobile [<i>Carroll v. U.S.</i>, 267 U.S. 132 (1925)]. • Scope of search includes the trunk and any containers reasonably corresponding to the size of contraband sought [<i>U.S. v. Ross</i>, 456 U.S. 798 (1982)], including passengers' belongings [<i>Wyoming v. Houghton</i>, 526 U.S. 295 (1999)]. • “Carroll doctrine” also allows officers to tow a car to the station and search it later [<i>Chambers v. Maroney</i>, 399 U.S. 42 (1970)] but does not allow warrantless entry of home or curtilage to search a vehicle. <i>Collins v. Virginia</i>, 201 L.Ed.2d 9 (2018). |
| Search incident to arrest (no warrant) | <ul style="list-style-type: none"> • Requirements for warrantless exception: 1) lawful arrest pursuant to warrant or valid warrantless arrest exception (see CCP Ch. 14); and 2) full custodial arrest of person to be searched [<i>Chimel v. California</i>, 395 U.S. 752 (1969)]. • Scope of search includes anything within the defendant’s area of possible reach or immediate control [<i>Arizona v. Gant</i>, 556 U.S. 332 (2009)] or when reasonable to believe evidence of the offense may be found in the vehicle [<i>Gant</i>, 556 U.S. at 354; <i>State v. Sanchez</i>, 538 S.W.3d 545 (Tex. Crim. App. 2017) (evidence of offense includes offenses for which there is probable cause, even if no formal arrest yet)]. |
| Inventory (no warrant) | <ul style="list-style-type: none"> • Requirements for warrantless exception: 1) Property inventoried must lawfully be in police custody; 2) department must have established inventory procedures; 3) officer must follow established procedures; and 4) inventory must not be subterfuge for search [<i>South Dakota v. Opperman</i>, 428 U.S. 364 (1976)]. • Search of locked vehicles permissible; closed container search permissible under federal law but questionable in Texas [<i>Autran v. State</i>, 887 S.W.2d 31 (Tex. Crim. App. 1994)]. • Inventory exception includes impounding a vehicle to ensure its protection if the driver is arrested. [<i>Colorado v. Bertine</i>, 479 U.S. 367, 375 (1987)]. |
| Plain view (no warrant) | Requirements for warrantless exception: 1) viewing officer must have lawful vantage point when he first sees the evidence; 2) item must be immediately recognizable as contraband or evidence of a crime; and 3) officer must have lawful right of access to the evidence [<i>Minnesota v. Dickerson</i> , 508 U.S. 366 (1993)]. |
| Administrative search (no warrant) | Under Occupations Code §2302.0015, officers may perform inspections of junked motor vehicles and parts if: 1) officer is authorized to enforce these administrative rules and regulations, and 2) officer limits search to procedures necessary to enforce regulations. |
| Court order for “black box” [Trans. Code §547.615] | Application for court order to seize Airbag & Electronic Control Module (ACM) must: 1) allege offense committed; 2) describe the car and include the VIN; and 3) list specific targets of search, such as speed the vehicle was traveling and braking information for five seconds before algorithm enabled, driver’s safety belt status, and ignition cycles of the vehicle [see Ch. 3: DWI in the <i>Warrants</i> manual]. |
| Warrant for car itself as evidence [CCP Art. 18.02(a)(10)] | Use (a)(10) warrant when officers seek to disassemble a car and view parts of it (e.g., brake system in an intoxication manslaughter case). |
| Warrant for the car as contraband subject to forfeiture under CCP Ch. 59 [CCP Art. 18.02(a)(12)] | <ul style="list-style-type: none"> • Affidavit must include: 1) detail qualifying the offense as one covered by Ch. 59; 2) describe item to be seized; 3) cite relevant section of Art. 59.01; 4) detail PC that property can be found at named place; and 5) describe place to be searched. • Limited class of magistrates can issue (a)(12) warrants [CCP Art. 18.01(h)–(i); see also Table 1-2 & Ch. 8: Contraband Subject to Forfeiture in the <i>Warrants</i> manual]. |