

TALLAHASSEE POLICE DEPARTMENT

GENERAL ORDERS

 Proudly Policing Since 1826	SUBJECT Search and Seizure		 Nationally Accredited 1986
	CHIEF OF POLICE <i>Signature on file</i>		
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AUTHORITY/RELATED REFERENCES

Amendment IV, United States Constitution
 FS Chapter 901, Arrests
 General Order 6, Arrests and Alternatives to Arrest
 General Order 18, Criminal Investigations
 General Order 49, Seizures and Forfeitures
 General Order 64, Vehicle Impounding
 General Order 87, Investigative Operations and Search Warrant Procedures

ACCREDITATION REFERENCES

CALEA Chapters 1, 74, 82
 CFA Chapter 2

KEY WORD INDEX

Body Cavity Searches Consent Searches Crime Scene Searches Exigent Circumstances Searches Fresh Pursuit Entry and Seizures General Guidelines Plain View Seizures Protective Sweeps Search Incident to Arrest Stop and Frisk Strip Searches Traffic Stop Search Documentation Use of X-Rays Vehicle Searches	Procedure XIII Procedure III Procedure IX Procedure VIII Procedure XIV Procedure I Procedure IV Procedure VII Procedure VI Procedure V Procedure XI Procedure II Procedure XII Procedure X
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POLICY

Officers shall comply with the provisions of the United States Constitution, Florida Statutes and law, and Department policy in every aspect governing search and seizure to ensure a citizen's right to be free from unreasonable searches and seizures is upheld.

DEFINITIONS

911 Investigation: When a 911 emergency telephone call is received by the CDA and the circumstances of the call and the observations of officers on scene do not promptly reveal the nature of the incident precipitating the call, requiring further assessment by officers.

Biased Policing: The selection of individuals for enforcement action based in whole or in part on a trait common to a group, without actionable intelligence to support consideration of that trait. This includes, but is not limited to race, ethnic background, gender or gender identification, sexual orientation, religion, economic status, age, cultural group, or other identifiable characteristics.

Body Cavity Search: An internal physical examination of body cavities, specifically excluding the mouth.

Exigent Circumstances: Circumstances causing an officer to reasonably believe prompt law enforcement action is necessary to render aid to an injured person or prevent physical harm to the officer or another person, the destruction of relevant evidence, or an escape of a suspect.

Fresh Pursuit: When an officer is engaged in an immediate attempt to detain or arrest a known suspect and the officer is in such close proximity to the suspect apprehension is likely.

Gender: The state of being male or female in relation to the social and cultural roles that are considered appropriate for men and women.

Gender Expression: External appearance of one's gender identity, usually expressed through behavior, clothing, body characteristics or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine. Others perceive a person's gender through these attributes.

Gender Identity: One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.

Protective Frisk: A pat-down or external manipulation of the outer garments of an individual solely for the detection of weapons based upon articulatable concern the individual is armed and dangerous.

Protective Sweep: A protective search of an entire structure, dwelling or other location conducted solely to locate persons who pose a threat to officers who are inside or in close proximity to the structure, dwelling or other location.

Probable Cause (to Search): Facts and circumstances which lead a reasonably prudent officer, based on their training and experience, to believe the items sought are subject to seizure due to their connection with criminal activity and those items will be found in the place to be searched.

Reasonable Suspicion: Articulate facts and circumstances which would lead a reasonably prudent officer, based upon their training and experience, to suspect a particular person has committed, is committing, or is about to commit a crime.

Shall: Indicates the described action is mandatory.

Should: Indicates the described action is not mandatory, but preferred.

Stop: A temporary investigative detention of an individual based upon reasonable suspicion.

Strip Search: Any search of a person requiring the removal or rearrangement of some or all clothing to permit the visual or manual inspection of the genitals, buttocks, anus, female breasts, or undergarments of the person.

Transgender: A term used to refer to a person who was born with the genetic traits and anatomy of one gender and self-identifies as another gender. A transgender person may be pre-operative, post-operative or non-operative.

PROCEDURES

I. GENERAL GUIDELINES

- A. Officers shall adhere to all legal and procedural mandates pertaining to the right of people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures. This right shall govern all decisions regarding searches and seizures.
- B. Officers faced with a search or seizure question, and not clearly knowing the appropriate course of action, shall seek the guidance and direction of their immediate supervisor.

- C. Supervisors faced with a search or seizure question, and not clearly knowing the appropriate course of action, shall seek the guidance and direction of their immediate supervisor or, if more appropriate, the Department's Legal Advisor.
- D. In the course of their official duties, officers will have many consensual encounters with citizens. Officers shall be mindful that consensual encounters are voluntary in nature, involve no coercion, detention, response to resistance or directing/controlling language or behaviors by the officer.
- E. Officers shall not conduct any searches or seizures based on biased policing.
- F. The protocols for obtaining and serving a search warrant are outlined in General Order 87 (Investigative Operations and Search Warrant Procedures).
- G. The protocols for conducting a vehicle inventory, which is **not** considered a search, are outlined in General Order 64 (Vehicle Impounding).
- H. If a Computer Assisted Dispatch (CAD) report is the method of documentation, the primary officer or Community Service Technician (CST) is responsible for entering each involved person, vehicle, or article from the incident into the appropriate box in the CAD. Additionally, the primary officer is responsible for the disposition code and any designation supplemental suffix code designed to track demographic data, search, and other information.

II. TRAFFIC STOP SEARCH DOCUMENTATION

- A. Officers shall annotate all searches conducted during a traffic stop using the appropriate search code via the:
 - 1. Computer-Aided Dispatch (CAD) System, or
 - 2. Appropriate radio channel/talk group.
- B. The officer conducting a traffic stop in which a search has occurred shall ensure an offense or incident report is completed providing details of the search when any of the following circumstances exist as a result of the search:
 - 1. A citizen complaint is likely to occur,

2. The vehicle or other property is damaged,
3. Any suspected contraband or evidence is located, or
4. Any vehicle occupant is arrested.

III. CONSENT SEARCHES

- A. The general prohibition against warrantless entry into a person's home, business, or other constitutionally protected area does not apply to situations in which consent has been lawfully obtained.
- B. Valid consent acts as a substitute for a search warrant or probable cause.
- C. Consent must be voluntary, and the subsequent search is limited in scope to the person, place, or thing the person allows to be searched:
 1. The voluntariness of a person's consent is generally determined by the totality of the circumstances, including the conduct of the officer(s), and the person's age, education, intelligence, knowledge and ability to understand and rationally respond to the request for consent.
 2. The person giving consent must have mutual use and access over the place or thing to be searched.
- D. Consent may be withdrawn by the person before or during the search. If consent is withdrawn, officers shall immediately cease any search in progress unless another exception to the search warrant requirement is applicable.
- E. Consent to search a person shall not extend to visual inspection of the genital area or other skin surfaces that would constitute a strip search.
- F. If the consent search is not documented as part of an offense or incident report, the officer who conducted the search shall ensure the search is documented in a CAD Report. The CAD report must contain following information in the required fields:
 1. The biographical and contact information of the person searched.
 2. The biographical and contact information of any person involved in the incident.

3. The biographical and contact information of any witnesses to the incident.
4. Detailed information to explain the incident in the narrative section of the CAD report (including the officers present and the results of the search).

IV. PLAIN VIEW SEIZURES

- A. An officer may make a valid, warrantless seizure of an item under the plain view doctrine only when:
 1. The officer is lawfully present in a position to observe the item,
 2. Its incriminating character is immediately apparent, and
 3. The officer has a lawful right of access to the item.
- B. Officers are prohibited from making a warrantless entry into a private dwelling to make an arrest or seize evidence of a misdemeanor offense based solely upon the plain view doctrine.
- C. The officer who conducted the plain view seizure shall ensure the seizure is documented in the appropriate Department report (i.e., offense, incident, or CAD report).

V. STOP AND FRISK

- A. Officers shall comply with the mandates of FS 901.151.
- B. Whenever an officer encounters a person under circumstances which reasonably indicate the person has committed, is committing, or is about to commit a criminal offense (i.e., the officer has reasonable suspicion) the officer may stop and detain the person to conduct a field interview to ascertain the person's identity and the circumstances which led the officer to believe the person was involved in criminal activity.
- C. An investigative detention must be temporary and last no longer than is reasonably necessary to carry out the purpose of the stop. Such temporary detention shall not extend beyond the place where it was first effected or the immediate vicinity thereof.
- D. When a valid stop has been conducted, and there exists separate and articulable reasonable suspicion the person stopped is armed and

poses a threat to the officer's safety, a protective frisk may be conducted.

- E. An object an officer detects during the course of a valid protective frisk may be seized without a warrant if the officer's sense of touch makes it readily apparent to the officer (as a result of their training and experience) the object is contraband and/or evidence of a crime.
- F. Whenever a protective frisk has been conducted, the officer shall ensure an offense or incident report is completed when any of the following circumstances exist as a result of the frisk:
 - 1. A citizen complaint is likely to occur,
 - 2. Any property is damaged, or
 - 3. Any suspected contraband or evidence is located.

VI. SEARCH INCIDENT TO ARREST

- A. When a lawful arrest is made, an officer shall search the arrestee, items in the arrestee's immediate possession, and the area within the arrestee's immediate control for the purpose of protecting the officer from attack, preventing escape, or discovering evidence of the crime(s) for which the person was arrested.
- B. When the arrestee was the recent occupant of a motor vehicle, officers are only authorized to search the vehicle in the following situations:
 - 1. The arrestee is within reaching distance of the vehicle's passenger compartment at the time of the search, or
 - 2. The officer reasonably believes the vehicle contains evidence of the crime for which the person was arrested, or
 - 3. The officer possesses a valid search warrant for the vehicle, or
 - 4. The officer has established another exception to the search warrant requirement (e.g., plain view, consent).
- C. The arresting officer is responsible for documenting a search incident to arrest when any of the following exist as a result of the search:
 - 1. A citizen complaint is likely to occur,

2. Any property is damaged, or
 3. Any suspected contraband or evidence is located.
- D. When a lawful arrest is made by a certified law enforcement official from another criminal justice agency and the official requests that an officer transport the arrestee to the Leon County Detention Facility on the official's behalf, the officer shall search the arrestee as outlined in section VI – A. The officer is responsible for documenting the search incident to arrest. A CAD report is only an acceptable method of documentation if:
1. The arresting official from the other law enforcement agency completes (and signs as the affiant) the Leon County Detention Facility booking form(s).
 2. No additional crime occurred in the officer's presence,
 3. No contraband or evidence is located during the officer's search,
 4. No response to resistance occurred which involved the officer,
 5. The officer enters the biographical and contact information of the arrestee and the official in the appropriate fields of the CAD, detailed information in the narrative section to explain the incident, and enters an accurate CAD disposition (including the search code) and,
 6. A citizen complaint isn't likely to occur.

VII. PROTECTIVE SWEEPS

- A. When officers are at a location for a lawful purpose and, based upon relevant circumstances about the location or persons present and in light of their training and experience, they have a reasonable belief there is a person on the premises not in their immediate presence **and** that person poses a threat to the officers, they are authorized to conduct a protective sweep.
- B. Officers shall limit protective sweeps to a cursory inspection of places where a person may be hiding.
- C. Officers conducting the protective sweep are responsible for ensuring the action is documented in an offense report and that it addresses the following:

1. Reason for the sweep,
2. Location (address or name of building), and
3. Results of the sweep, and
4. If any person found during the sweep was searched and/or detained, their full name and race/gender, or an explanation if the person's information is not obtained.

VIII. EXIGENT CIRCUMSTANCES SEARCHES

- A. Officers may enter and search a location without a search warrant when they have a reasonable belief an emergency exists inside the location, and an immediate need for law enforcement action is necessary, to include:
 1. Protecting individuals in distress, assisting victims of crimes, or investigating suspicious signs of impending danger, or
 2. Preventing the imminent use of a dangerous weapon or the potential destruction of evidence of a felony.
- B. Officers shall limit the scope of an exigent circumstances search to the places or areas entered to accomplish the goals in subsection A above.
- C. When conducting a 911 Investigation, officers shall use reasonable judgment in evaluating the need to conduct an exigent circumstances search of a structure, dwelling, or conveyance:
 1. Officers shall base their evaluation upon the totality of the circumstances of the call for service, and factors to consider include but are not limited to:
 - a. Information gleaned from the 911 telephone call(s),
 - b. Positively linking the 911 call(s) to the location,
 - c. Whether or not a person is contacted at the location,
 - d. Conduct of persons on scene,
 - e. Noises or voices from within the location,

- f. Prior calls for service/investigations at the location,
 - g. Physical appearance of the location (exterior and interior), including the security of doors and windows, and
 - h. Information gleaned from neighbors or other persons on scene.
- 2. If after evaluating the totality of the circumstances, officers do not have a reasonable belief a person is in imminent need of assistance (as described in subsection A above) inside the location, an exigent circumstances search is not authorized.
 - 3. If after evaluating the totality of the circumstances, officers have a reasonable belief a person is in imminent need of assistance (as described in subsection A above) inside the location – and there is no authorized person on scene to grant prompt access – officers should:
 - a. Notify the appropriate CDA operator and their immediate supervisor of their intent to conduct an exigent circumstances search of the location,
 - b. Gain access in a manner to minimize damage to the structure, after checking for unsecured doors or windows, or neighbors or relatives with a key, and
 - c. Conduct the exigent circumstances search no longer than is necessary to either:
 - 1) Locate a person in imminent need of assistance, or
 - 2) Dispel the officers' reasonable belief a person is in need of assistance.
 - 4. If after evaluating the totality of the circumstances, officers have a reasonable belief a person is in imminent need of assistance (as described in subsection A above) inside the location – and there is an authorized person on scene to grant prompt access – officers should attempt to obtain consent to enter the location.
 - 5. If the authorized person refuses consent, officers are authorized to conduct entry without delay.
 - 6. When an exigent circumstances search is not conducted during a 911 Investigation, the primary officer is responsible for ensuring the

CAD report include the following:

- a. Observations (e.g., windows and doors appeared secure, inaccessibility to structure),
 - b. Any persons present (full name, race/gender, or an explanation if a person's information is not obtained),
 - c. Actions taken and justifications for not conducting an exigent circumstances search, and
 - d. Explanation for the 911 call (e.g., technical malfunction, prank, accidental call).
7. Whenever an exigent circumstances search is conducted during a 911 Investigation, the primary officer is responsible for ensuring an incident or offense report is completed which contains the following:
- a. What was searched (e.g., dwelling, structure, conveyance),
 - b. If any person was searched, their full name, race/gender, or an explanation if the person's information is not obtained, and
 - c. Results of the exigent circumstances search.
8. Officers shall not use a 911 Investigation as a ruse to gain entry into a dwelling, structure, or conveyance for any purpose unless approved by the officer's Assistant Bureau Commander, the Watch Commander, or higher Department authority.
- D. Except as described in subsections C 6 and 7 above, an officer conducting any type of exigent circumstances search shall ensure the incident is documented in the appropriate Department report.

IX. CRIME SCENE SEARCHES

Exigent circumstances at the scene of a crime shall justify a valid, warrantless search when officers reasonably believe an emergency exists.

- A. Such searches are limited in scope and shall not extend beyond what is necessary to address the emergency.
- B. A broader search, or an evidentiary search, requires a search warrant or another exception to the search warrant requirement.

- C. The officer who conducted the crime scene search shall ensure the incident is documented in the appropriate Department report.

X. VEHICLE SEARCHES

- A. A warrantless, valid search may be made of a motor vehicle when there is probable cause to believe the vehicle:
 - 1. Contains contraband or evidence of a crime, and
 - 2. Is capable of being moved before a search warrant can be obtained.
- B. Under the circumstances described in subsection A above, a search may be made of the entire vehicle and any containers within (to include the trunk, glove compartment, other compartments, and loose items) whether locked or unlocked, which are capable of holding the object(s) of the search.
- C. The officer who conducted the warrantless vehicle search shall ensure the incident is documented in the appropriate Department report. If no contraband is discovered nor an arrest made, the CAD (Computer Assisted Dispatch) report notes will be appropriate when it contains at least the:
 - 1. Driver and Passenger information (to include the race and sex of all occupants) in the field designated for a person;
 - 2. Vehicle information in the field designed for a vehicle; and
 - 3. Detailed information in the field designated for notes to explain the incident, consent if given, officers present, and the results of the search.

XI. STRIP SEARCHES

- A. Officers must be cognizant of the sensitive nature of strip searches and shall:
 - 1. Use appropriate prudence and discretion in conducting or observing a strip search, and
 - 2. Abide by all applicable directives in this section.
- B. A strip search is authorized only when all the criteria below are met:

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1. The person is under arrest.
2. There is probable cause to believe the arrestee possesses any of the following concealed items:
 - a. Weapons,
 - b. Controlled substances,
 - c. Stolen property,
 - d. Evidence of a crime, or
 - e. Contraband (e.g., handcuff key, sharp object).
3. Written approval for the strip search is received from an on-duty sworn Department supervisor.
 - a. Officers in an acting sergeant status are not permitted to approve a strip search.
 - b. The written approval shall be given by means of an e-mail, memo, or supplemental offense report.
- C. Supervisors deciding whether or not to approve a strip search shall consider the circumstances of the situation and the mandates of subsections B 1 and 2 above.
- D. Whenever possible, strip searches shall be conducted by detention personnel at the Leon County Detention Facility or the Juvenile Assessment Center.
- E. An officer conducting a strip search shall be of the same gender as the arrestee (see subsection I below).
- F. A witness officer shall be present during an officer-conducted strip search and shall be of the same gender as the arrestee (see subsection I below).
- G. If there is a need for another officer to be present during an officer-conducted strip search (e.g., security, evidence collection), that officer shall be of the same gender as the arrestee (see subsection I below).
- H. An officer conducting a strip search shall ensure the following:

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1. Only officers directly relevant to the search are present,
 2. The search is conducted in a location where persons who are not involved cannot observe the search, and
 3. The search is not conducted in the presence of other arrestees, civilian members or citizens participating in the Patrol Ride-Along Program.
- I. In circumstances where the arrestee self-identifies as transgender, the officers involved with the strip search shall be of the stated gender identification and expression of the arrestee.
- J. The protocols in this section are equally applicable to juvenile arrestees.
- K. It is the responsibility of the officer conducting a strip search or requesting detention personnel to conduct a strip search to document the following in the appropriate offense report:
1. Reason(s) for the search,
 2. Supervisor who approved the search,
 3. Time and method of approval,
 4. Time of the search,
 5. Area(s) of the body searched,
 6. Location where the search was conducted,
 7. Results of the search, and
 8. Witness(es) present.
- L. The evidentiary seizure of an arrestee's clothing by an officer is not considered a strip search; however, the officers involved in such a seizure shall:
1. Use appropriate prudence and discretion in conducting or observing the seizing of the clothing, and
 2. Adhere to the same gender/privacy mandates listed for strip searches in subsections E – I above.

XII. USE OF X-RAYS

- A. An x-ray of a person is authorized only when all of the following criteria are met:
 - 1. The person is under arrest.
 - 2. There is probable cause to believe the arrestee has concealed, in a body cavity, any of the following items:
 - a. Weapons,
 - b. Controlled substances,
 - c. Stolen property,
 - d. Evidence of a crime, or
 - e. Contraband (e.g., handcuff key, sharp object).
 - 3. Verbal approval for the x-ray is received from an on-duty sworn Department supervisor.
 - a. Officers in an acting sergeant status are not permitted to approve x-ray procedures be conducted on an arrestee.
 - b. The verbal approval may be given via telephone, police radio, or in person.
 - c. If written approval is given in lieu of (or in addition to) the verbal approval, it shall be by e-mail, memo, or supplemental offense report.
- B. The officer receiving approval for an x-ray of an arrestee shall document the following information in the appropriate offense report:
 - 1. Reason(s) for the x-ray,
 - 2. Supervisor who approved the x-ray,
 - 3. Time and method of approval,
 - 4. Time of the x-ray,
 - 5. Person who conducted the x-ray,

6. Area(s) of the body x-rayed,
 7. Location where the x-ray was conducted,
 8. Results of the x-ray, and
 9. Witness(es) present.
- C. An x-ray procedure is not considered a body cavity search; however, it is recommended an x-ray is completed prior to the request for a body cavity search from a medical professional.

XIII. BODY CAVITY SEARCHES

- A. Officers shall not physically conduct a body cavity search.
- B. Body cavity searches shall be conducted only by qualified medical personnel under medically sanitary conditions.
- C. An x-ray procedure is not considered a body cavity search; however, it is recommended an x-ray is completed prior to the request of a body cavity search from a medical professional.
- D. A body cavity search is authorized only when all of the following criteria are met:
1. The person is under arrest.
 2. There is probable cause to believe the arrestee has concealed, in a body cavity, any of the following items:
 - a. Weapons,
 - b. Controlled substances,
 - c. Stolen property,
 - d. Evidence of a crime, or
 - e. Contraband (e.g., handcuff key, sharp object).
 3. Written approval for the body cavity search is received from the appropriate Bureau Commander:

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- a. Supervisors in an acting Bureau Commander status are permitted to approve body cavity searches.
 - b. The written approval shall be given by means of an e-mail, memo, or supplemental offense report.
- E. If after x-ray, a medical professional does not believe the body cavity search is a medical emergency, the Bureau Commander should consult with the Department Legal Advisor prior to approval to determine if any legal process is required.
- F. Commanders deciding whether or not to approve a body cavity search shall consider the circumstances of the situation and the mandates of subsections C and D above.
- G. The protocols in this section are equally applicable to juvenile arrestees.
- H. The officer receiving approval to have a body cavity search performed shall document the following in the appropriate offense report:
- 1. Reason(s) for the search,
 - 2. Commander who approved the search,
 - 3. Time and method of approval,
 - 4. Time of the search,
 - 5. Person who conducted the search,
 - 6. Area(s) of the body searched,
 - 7. Location where the search was conducted,
 - 8. Results of the search, and
 - 9. Witness(es) present.

XIV. FRESH PURSUIT ENTRY AND SEIZURES

- A. An officer in fresh pursuit of a suspect is authorized to conduct a warrantless entry into a dwelling to affect a felony arrest.
- B. An officer in fresh pursuit of a suspect shall not conduct a warrantless

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entry into a dwelling to make an arrest or seize evidence for a misdemeanor crime, city ordinance violation, or traffic infraction.

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