

GENERAL ORDER

August 2017

Immediately

III-25

Distribution: All Employees

Subject: SEARCH OF PERSONS

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Accreditation Standards: 1.2.4, 1.2.8 **CFA 2.01**Cross Reference: [G.O. III-01, Field Contacts](#)
[G.O. III-10, Transportation and Booking of Prisoners](#)Replaces: §101.21, §901.211 and §901.215, §984.13, F.S.S.
G.O.III-25, Search of Persons (August 28, 2017)

This Order consists of the following sections:

- I. Policy
- II. Definitions
- III. Frisk
- IV. Consent Search
- V. Search Incidental To Arrest
- VI. Extraordinary Searches
- VII. Search for an Indicator of Medical Disability
- VIII. Hand-held Metal Detectors (Wands)

I. POLICY

Recognizing the need for the safety of Officers, citizens and suspects, and to detect and secure evidence of criminal activities, it is the policy of the St. Petersburg Police Department that Officers **will** frisk or search individuals to the extent legally authorized. However, extraordinary searches **are** restricted as described in this order.

II. DEFINITIONS

- A. **Body Cavity** – All body cavities except the oral cavity.
- B. **Consent Search** – A search where consent is freely and voluntarily given. It is conducted within the scope of the consent as determined by the totality of the circumstances.
- C. **Extraordinary Search** – A strip search, body cavity search, or an oral cavity search.
- D. **Frisk** – A pat down of a suspect's outer clothing.
- E. **Gender** – The state of being male, female, or nonbinary in relation to the social and cultural roles that are commonly associated with men and women.

F. 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.

G. 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.

H. Probable Cause – A set of facts, information, circumstances, or conditions that would lead a reasonable person to believe that an offense has been committed, and that the accused committed the offense.

I. Strip Search – Having an arrested person remove or arrange some or all of their clothing so as to permit a visual or manual inspection of the genitals, buttocks, anus and breasts (in the case of a female), or undergarments of such person.

III. FRISK

A. A frisk is limited to a pat down of a person's outer clothing and may be conducted ONLY if an Officer reasonably believes or suspects that weapons are possessed by a person who is the subject of a valid *Terry* stop. A valid *Terry* stop of an individual does not automatically authorize a frisk of the individual.

B. Any weapon(s) located during the frisk may be seized and the individual charged; if possession of the weapon(s) constitutes a violation. If the individual is arrested, a search incidental to the arrest may be conducted.

C. While a bulge in a pocket or under a shirt may justify a frisk, if it is determined that the bulge is not a weapon, any further search would exceed the scope of a frisk.

D. If, during a pat down, an Officer feels an object that can be immediately identified as contraband through the sense of touch and without manipulation (sliding or moving the item around with fingers), the item may be seized, and the individual charged under the concept of the "Plain Feel" exception.

IV. CONSENT TO SEARCH

A. A search of an individual may be conducted with the consent of the person to be searched. While it is not necessary to advise the person that they have a right to refuse consent, the courts will consider the failure to do so when determining the voluntariness of the consent.

B. The person giving the consent may limit the scope of the consent search and may withdraw the consent, verbally or by actions, at any time.

C. The state has the burden of proving, by a preponderance of the evidence, that the consent was freely and voluntarily given, and not mere acquiescence to law enforcement.

1. In determining whether the consent was freely and voluntarily given, the courts will consider whether or not the person was advised that they had a right to refuse consent.

2. When the person giving the consent is a juvenile, the courts will also consider factors including, but not limited to, age, education level, maturity and experience of the juvenile with the criminal justice system.

D. Consent to search an individual will not necessarily extend to a closed container found in an individual's pocket.

V. SEARCH INCIDENTAL TO ARREST

A. Officers will thoroughly search prisoners who are arrested or given into their custody to ensure the safety of themselves as well as others. Any contraband, evidence, or fruits or instrumentalities of a crime will be seized, and charges filed as may be appropriate.

B. Prisoner searches should, whenever possible, be conducted by Officers of the same gender as the prisoner. An Officer who must search an arrestee of the opposite sex **will** have another Officer or Supervisor witness the search. In such an event, the facts and circumstances justifying the search, including the identity of any person witnessing the search, **will** be documented in the report. However, extraordinary searches may be conducted only as provided in this Order.

C. The courts have distinguished between a “seizure” (the act of taking custody of evidence) and a “search” (an inspection or examination). Therefore, upon probable cause to believe that an individual has concealed a weapon, evidence, or contraband within or underneath the person’s clothing, Officers are authorized to reach into or under the clothing, as may be necessary, to seize the object or item. Such seizure **will** not be deemed a strip search.

VI. EXTRAORDINARY SEARCHES

A. Strip searches, body cavity searches and oral cavity searches are extraordinary searches and may be conducted only when the requirements of this order are met.

B. Strip Search

1. Generally, persons arrested for a felony or a misdemeanor involving violence, a weapon, or controlled substances will be subjected to a strip search at the Pinellas County Jail. Therefore, except in cases where the use of authorized restraints on the arrested subject will not resolve an Officer safety issue, or a reasonable concern that contraband or evidence may be destroyed, strip searches should be deferred until arrival at the jail.

2. When a strip search is necessary, the following procedures/restrictions **will** be followed:

a. The subject must be under arrest or there must be probable cause to arrest at the time of the search.
 b. Persons arrested for a traffic; regulatory; or misdemeanor offense may NOT be subjected to a strip search except in a case which is violent in nature, involves a weapon, or involves controlled substances, or when there is **probable cause** to believe that the individual is concealing a weapon, a controlled substance, or stolen property.

c. The search **will** be conducted only at Police Headquarters, a community resource center, or within some other structure that will ensure the privacy of the individual to be searched. Under no circumstances **will** a strip search be conducted on the street or within a vehicle.

d. Except as provided in paragraph f. below, no Officer **will** order or conduct a strip search without obtaining the written authorization of the Officer’s on-duty Supervisor or Watch Commander. The written authorization ([Attachment A](#)) will become a permanent supplement to, and filed with, the original offense report.

e. The Officer performing the strip search and the witness **will** be of the same gender/gender identity as the arrested person. Before conducting a strip search, an Officer may ask the individual to be searched their preference with respect to the gender of the Officer conducting the search. This request should be honored absent exigent circumstances, which must be documented in writing. An arrested person who refuses to specify their gender identity will be searched by an Officer of the same gender as the arrested person’s overt gender expression.

f. Blanket written authorization ([Attachment B](#)) may be given in advance for an operation likely to result in numerous arrests. The operation must be pre-planned, involve an activity such as execution of a search warrant for drugs, a reverse sting, a series of buy-busts as part of a one-day operation, or a roundup of subjects for a group of warrants. Blanket authorization only applies to prisoners with felony narcotics charges. The written authorization will become a permanent supplement to, and filed with, the original offense report.

C. Body Cavity Searches

1. Body cavity searches **will** not be authorized, conducted or performed by any Officer or employee of this agency.

2. In the event an Officer has reason to believe that a prisoner has evidence or contraband concealed in a body cavity, other than the oral cavity, the arrested person **will** be appropriately restrained and/or guarded until such time as the prisoner is transported to the Pinellas County Jail. Upon arrival, intake personnel **will** be immediately alerted to the need to conduct such a search.

3. Body cavity searches conducted at medical facilities are done at the discretion of medical personnel. Officers should relay relevant information involving circumstances that may warrant a body cavity search but will not request or direct medical personnel to conduct the search on behalf of the Department.

D. Oral Cavity Searches

1. Oral cavity inspections/searches are permissible with consent, as evidenced by voluntary compliance of the suspect when:

- a. There is probable cause to believe the person has contraband or evidence contained in their mouth; and
- b. The Officer has a valid concern that evidence will be destroyed and/or, swallowing the contraband or evidence would be detrimental to the health of the person.

2. Under no circumstances will any choke hold or any other excessive force be used in order to obtain contraband or evidence from the oral cavity.

3. Under no circumstances will any foreign object be inserted into the oral cavity in order to obtain the contraband or evidence or a sample thereof.

E. An Officer conducting any type of “extraordinary search” **will** fully explain the circumstances leading up to the search; and also name who conducted the search, witnesses (if any), the Supervisor who authorized the search, the place the search was conducted and the results of the search in their offense report.

VII. SEARCH FOR AN INDICATOR OF MEDICAL DISABILITY

A. Florida law requires an Officer arresting any person who appears to be inebriated, intoxicated or not in control of their physical functions to conduct a search for a medic-alert bracelet, necklace or any other visible identifying device which would specify any medical disability, which would account for the actions of the person.

B. Officers finding such a device or indicator of medical disability **will** take immediate steps to see that appropriate medical care is provided for the person.

VIII. HAND-HELD METAL DETECTORS (WANDS)

A. The hand-held metal detector provides law enforcement personnel with an additional method of identifying and locating weapons. Nothing in this policy is intended to imply that the use of the hand-held metal detector is meant to replace a properly completed frisk or search.

1. Only Officers who have received training on the hand-held metal detector are authorized to use it.
2. The Officer **will** only operate the hand-held metal detector as instructed.
3. Prior to using the hand-held metal detector, the Officer will test it to ensure it is operating properly.

B. Individuals will only be screened using the hand-held metal detector when:

1. Conducting a search incident to a lawful arrest.
2. An Officer possesses reasonable, articulable suspicion that the individual possesses a weapon (*Terry Stop*).
3. On a case-by-case basis, when a suspect enters into a secure area of the Department and is not physically restrained; i.e. voluntary interview, etc.

4. When an Officer takes a minor into custody pursuant to §984.13, F.S.S: *Taking into custody a child alleged to be from a family in need of services or to be a child in need of services*. The Officer may perform a limited frisk or pat-down for weapons prior to placing the minor in a law enforcement vehicle in order to ensure the minor possesses no weapons or other dangerous instrumentalities (AGO 2011-08).

C. Using the Hand-held metal detector

1. An Officer **will** inquire if the subject has a medical condition which would preclude the use of the instrument.
2. A scan will not be conducted on an individual who is pregnant, has a pacemaker, or objects for any other medical condition.

Anthony Holloway
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