

PSF-2.10 - Search, Seizures & Inventories

SEARCH, SEIZURES AND INVENTORIES

Administrative Rules Adopted by Police Bureau Pursuant to Rule-Making Authority

ARB-PSF-2.10

Section 1- Procedure

Directive Specific Definitions

A frisk is a cursory “pat-down” type physical search of a person.

An inventory is a mandated examination of a person or personal property, subsequent to arrest or seizure, for purposes of safety and documentation.

A search occurs when a person’s privacy interests are invaded. Unaided observation from a lawful vantage point is not a search in Oregon.

A seizure of property occurs when there is a significant interference with a person’s possession or ownership interests in the property.

A strip search is a thorough search wherein the detainee’s clothing is removed or rearranged so as to expose genitals, buttocks or breasts (when female).

Probable Cause

With certain exceptions (e.g. consent search, emergency aid, incident to arrest, parole/probation searches, and protective sweeps), most types of searches require probable cause to be valid. In general, probable cause to search means a substantial objective basis to believe that more likely than not:

- a. A criminal offense is being, or has been committed.
- b. Items of evidence pertaining to that criminal offense are in a specific place sought to be searched.

Search Warrants and Exceptions

As a general rule, searches require a search warrant (see DIR 652.00). There are exceptions to this general rule, wherein a search warrant is not required as a prerequisite to conducting a search (e.g. administrative, automobile exception, community caretaking, consent, emergency aid, exigent circumstances, hot pursuit, incident to arrest, parole/probation searches, protective sweeps, and “stop and frisk”). In order to search without a warrant, members must comply with the requirements for an exception as currently set down by the courts.

The following are subject so seizure:

- a. Evidence of or information concerning the commission of a criminal offense.
- b. Contraband, the fruits of crime, or things otherwise criminally possessed.
- c. Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense.
- d. A person for whose arrest there is probable cause or who is unlawfully held in concealment (e.g. children held in violation of a custody order and held in concealment from the court).

Member Responsibilities

- a. As this area of law is constantly changing, it is all members' responsibility to remain aware of current law (via training bulletins, in-service training, etc.).
- b. Generally, searches and inventories of a detainee may be conducted by a member of the opposite gender from that of the detainee. When safety and other tactical considerations permit, in the judgment of the member(s) at the scene, the Bureau recommends that a member of the same gender as the detainee conduct the search.
- c. When a strip search is conducted, the search will be done by a member of the same gender as that of the detainee. A second member, preferably of the same gender as the detainee, will monitor the search (for safety and witnessing).
- d. A probing search into the vagina or anus of a detainee will not be done except under the authority of a search warrant and will only be performed by medical personnel at a medical facility.
- e. Members should document all searches in their notebook or an appropriate report. This documentation should include reasons for, nature of and results of the search.
- f. Unreasonable searches can result in discipline, suppression of evidence in

Inventories

- a. Vehicles: Every vehicle towed (except private request tows) will be inventoried (City Code 14.10). A Property Receipt must be completed accounting for all items seized. If the vehicle's owner or custodian is not available, a copy of the Property Receipt will be placed in a conspicuous place in the vehicle or given to the tow operator. When a vehicle is part of a felony crimescene, or known (or suspected) to contain evidence of a felony, members should consult with an investigative sergeant prior to towing the vehicle.

b. Detainees' Personal Property: Per City Code 14.10, members will inventory all property of detainees.

1. Prior to detention in a secure facility (e.g. police vehicle) or transport, members will remove all toxic, flammable, or explosive substances; contraband; articles or potential articles of escape; weapons and objects that are potential weapons.
2. Once a detainee is accepted at a detention facility (e.g. MCDC), members will handle the detainee's personal property in accordance with the detention facility's policies and DIR 660.10 (e.g. placed in MCDC with the detainee, placed in the Property Room as evidence or "safekeeping").
3. Large items of personal property (e.g. backpacks) are not accepted by MCDC. Members will issue a Property Receipt for such items, and place those items in the Property Room. This property inventory is mandatory. Inadvertent discovery of evidence of a crime does not preclude charging the detainee with the discovered crime.

Section 2- References

ORS 131.005 Definitions
ORS 131.605 - 131.625 Stopping of Persons
ORS 133.525 - 133.537 Search and Seizure
City Code 14.10 Police Duties to Inventory Property
DIR 631.60 Premises, Authority to Enter
DIR 652.00 Search Warrants
DIR 660.10 Evidence and Property Procedures

HISTORY

Submitted for inclusion in PPD March 6, 2002.

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