



Approved:
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Subject:

260. Search and Seizure

Effective:
September 15, 2017

CALEA Standards: 1.2.4

Page:
1

Revised:
May 18, 2021

260.1: PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Albany Police Department personnel to consider when dealing with search and seizure issues.

260.2: POLICY

It is the policy of the Albany Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards, and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

260.3: SEARCHES

- a. The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.
Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:
 - 1) Valid consent
 - 2) Incident to a lawful arrest
 - 3) Vehicle searches (under certain circumstances)
 - 4) Exigent circumstances
- b. Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include but are not limited to seizure and examination of abandoned property and observations of activities and property located in public areas.

- c. Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department should act in each situation according to training and their familiarity with clearly established rights as determined by case law.
- d. Whenever practical, officers should contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

260.3.1: SEARCH PROTOCOL

Although situations will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- a. Members of this department will strive to conduct searches with dignity and courtesy;
- b. Officers should explain to the person being searched the reason for the search and how the search will be conducted;
- c. Searches should be conducted with due regard and respect for private property interests and in a manner which minimizes damage. Property should be left in a condition as reasonably close as possible to the condition it was in before the search;
- d. In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations, or access codes when a search of a locked property is anticipated;
- e. When the person to be searched is of the opposite sex of the searching officer, a reasonable effort should be made to summon an officer of the same gender as the subject to conduct the search. When it is not practical to summon an officer of the same gender as the subject, the following guidelines should be followed:
 - 1) Another member should witness the search;
 - 2) The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing, or clothing which could not reasonably conceal the item(s) sought.

260.4: DOCUMENTATION

- a. Officers are responsible for documenting any search and to ensure that any required reports are sufficient including, at a minimum, documentation of the following:
 - 1) Reason for the search;
 - 2) Any efforts used to minimize the intrusiveness of the search (e.g., asking for consent or keys);
 - 3) Any damages resulting from the search or entry;
 - 4) All steps taken to secure property after the search;
 - 5) Results of the search, including a description of any property or contraband seized;
 - 6) If the subject of the search is of a different gender than the officer, any efforts to summon an officer of the same gender and the identification of any witness officer.
- b. Supervisors shall review reports to ensure that the reports are accurate, that actions are properly documented, and that current legal requirements and department policy have been met.