




ARLINGTON COUNTY POLICE DEPARTMENT DIRECTIVE MANUAL

Chapter: 5 Procedures	Effective Date: May 6, 2021	Amends/Supersedes: New	By Authority of the Acting Chief of Police  Charles A. Penn
Accreditation Standard(s): ADM.02.02, OPR 08.01			

536.06 Search and Seizure

I. Policy

Searches and seizures effected by officers shall be conducted reasonably and in accordance with the [Fourth Amendment](#), applicable state law, and relevant case law, taking into account the totality of the circumstances of an incident in order to ensure an equitable and effective criminal justice process. Officers are required to document all searches and seizures.

II. Procedure

- A. A search or seizure must be based on specific, articulable facts establishing criminal behavior and may not be based on a person's race, color, religion, national origin, sex, gender identity, sexual orientation, age, or disability, except when those factors are used as descriptors to identify a suspect.
- B. When practicable, before searching a person of a different sex, an officer should request an officer of the same sex of the person to be searched to conduct the search. If no such officer is available, another officer shall witness the search.
- C. Search Warrants
 - 1. An [Affidavit For Search Warrant](#) must be based on probable cause and contain material facts pertaining to the alleged criminal offense and its correlation to the search for evidence.
 - 2. Officers shall adhere to all procedures for obtaining, executing, and returning search warrants as prescribed in [Title 19.2, Chapter 5, of the Code of Virginia](#).
 - 3. A search warrant does not need to be returned by the officer who obtained or executed it; it may be returned by any sworn officer.
- D. Consent Searches
 - 1. A consent search is a search conducted with the voluntary consent of a person lawfully in charge of the thing to be searched.
 - 2. Officers may only request or conduct consent searches based on reasonable articulable suspicion of criminal activity.

3. Consent searches should be captured on video when possible. If video is not available, the officer conducting a consent search should complete the [Permission For Search](#) form prior to conducting a consent search.
4. Officers shall immediately cease searching when consent is withdrawn, except in situations where the result of a search prior to withdrawal of consent provides probable cause for the continuance of a lawful, non-consensual search.

E. Plain View Doctrine

1. The plain view doctrine allows an officer to seize evidentiary items or contraband when discovered in plain view. Seizures under plain view are within the law when:
 - a. An officer is in a place where the officer has a legal right to be.
 - b. An officer does not move, inspect, open, or search the item before determining it to be some form of contraband.
 - c. An officer has a lawful right of access to the item.
 - d. The incriminating nature of the item is immediately apparent.

F. Searches Incident to Arrest

1. A search incident to arrest is a search of an arrestee's person and the area within the arrestee's immediate control.
2. Prior to transport, all arrestees being taken to a secure facility must be thoroughly searched.
3. An officer may search a vehicle incident to a recent occupant's arrest if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense for which the person is being arrested.

G. Terry Stops and Pat-Downs

1. A Terry Stop is a brief seizure of a person based on reasonable, articulable suspicion that a person has committed, is committing, or is about to commit a crime. A Terry Stop may only last as long as necessary for an officer to either confirm or dispel the initial reasonable articulable suspicion.
2. A Terry Pat-Down is a limited search of the outside of a person's clothing for weapons, based on reasonable, individualized articulable suspicion that the person has committed, is committing, or is about to commit a crime and is armed and dangerous.
3. During a Terry Pat-Down an officer may not go into the person's pockets or manipulate any object felt during the pat-down. However, if an officer feels an object that is immediately recognizable as contraband, that object may be seized; this is commonly known as the "plain feel" doctrine.

H. Exigent Circumstances

1. Warrantless searches may be conducted under exigent circumstances. Generally, exigent circumstances which would allow a warrantless search fall into one of the following categories:
 - a. Prevention of imminent bodily harm.
 - b. Prevention of imminent destruction of evidence.
 - c. Hot pursuit of a suspect. Warrantless searches under hot pursuit must meet the following three criteria:
 - 1) The fleeing person has committed a serious offense or crime of violence.
 - a) Serious offense means any felony, reckless driving, DUI, or drug offense that involves personal injury to another.
 - b) Crime of violence means the use, attempted use, or threatened use of physical force against the person or property of another or any felony offense that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.
 - 2) The pursuit must begin in a public place.
 - 3) The pursuit must be immediate and continuous.

I. Strip Search

1. As stated in [VA Code § 19.2-59.1](#), no person in custodial arrest for a traffic infraction, Class 3 or Class 4 misdemeanor, or a violation of a city, county, or town ordinance, which is punishable by no more than 30 days in jail shall be strip searched unless there is reasonable cause to believe on the part of a law-enforcement officer authorizing the search that the individual is concealing a weapon.
2. Officers conducting a strip search shall adhere the following:
 - a. An officer must obtain supervisory approval prior to conducting a strip search unless exigent circumstances exist that present a reasonable risk of death or serious bodily injury.
 - b. A search warrant shall be obtained prior to performing any non-consensual strip search except under exigent circumstances.
 - c. A strip search shall only be conducted by an officer who is a member of the same sex as the person arrested and be attended by a backup officer, also of the same sex.
 - d. A strip search will be conducted in an area which cannot be observed by persons not conducting the search.

J. Body Cavity Search

1. Unless exigent circumstances exist that present a reasonable risk of death or serious bodily injury, officers shall obtain both supervisory approval and a search warrant before conducting a search of any body cavity, other than the mouth.
 - a. A body cavity search shall only be conducted by medically trained personnel.
 - b. In addition to the medically trained personnel conducting the search, the only persons who shall observe the search shall be officers of the same sex as the arrestee. Such observers may only be present when needed for a legitimate law enforcement purpose, such as controlling the person being searched or witnessing or seizing any contraband or evidence found during the search.

K. Protective Sweeps

1. Officers conducting a lawful search may conduct a limited search—known as a protective sweep of areas accessible from the area being searched when they have a reasonable, articulable suspicion that there is a person or persons present who may pose a danger to the safety of police officers or others at the scene. A protective sweep shall not be motivated by a search for evidence.

III. Search Documentation

A. All searches shall be documented.

1. Searches that result in the finding of contraband or evidence shall be documented in a Case Report.
2. Searches that do not result in the finding of contraband or evidence may be documented in a Field Investigation.
3. Searches conducted during a traffic stop that do not result in the finding of contraband or evidence shall be documented on a Virginia Uniform Summons.

B. Search documentation shall contain the following information:

1. The officer conducting the search.
2. The officer who obtained, executed, and returned the search warrant, if applicable.
3. The person, place, or thing being searched.
4. The justification for the search (search warrant, consent, exigency, etc.)
5. A description of any evidence or contraband seized.
6. Measures taken to secure the building, home, vehicle, etc., at the conclusion of the search, if applicable.

7. If an officer obtains written consent to search, the document granting consent shall be scanned and attached to the Case Report in LERMS or uploaded to Evidence.com and tagged with the case number. The original document granting consent shall be submitted as evidence.
8. Whenever a strip or body cavity search is conducted, the following shall be documented in a Case Report
 - a. The parts of the body searched.
 - b. The name of the medically trained personnel who conducted the search.
 - c. The names of all officers present during the search.
 - d. The name of the supervisor who approved the search, if applicable.