

BALTIMORE POLICE DEPARTMENT – EDUCATION AND TRAINING SECTION LESSON PLAN										
COURSE TITLE: Field Training Officer Program LESSON TITLE: Searches Overview										
New or Revised Course [] New [X] Revised										
Prepared By: Sgt. Josh Rosenblatt and Timothy Dixon Date: August 9, 2021										
Academic Director Approval: Director Gary Cordner Date:										
<table border="0"> <tr> <td>PARAMETERS</td> <td>Lesson hours: 2 hours</td> <td>☐ Entry-level</td> </tr> <tr> <td></td> <td>Class size: 30</td> <td>☐ Continuing Education</td> </tr> <tr> <td></td> <td>Space needs: Classroom</td> <td>☒ Other</td> </tr> </table>		PARAMETERS	Lesson hours: 2 hours	☐ Entry-level		Class size: 30	☐ Continuing Education		Space needs: Classroom	☒ Other
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	Class size: 30	☐ Continuing Education								
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STUDENT/COURSE PREREQUISITES/QUALIFICATIONS (if any) All students must meet MPCTC and departmental pre-qualification screening to take this course.										
LESSON HISTORY This lesson plan was derived from MPCTC field training officer program curriculum.										
PERFORMANCE OBJECTIVES 1. Given a facilitated discussion, students will be able to identify BPD policy requirements for searches to the satisfaction of the facilitator. 2. Through a group activity and facilitated discussion, students will be able to analyze the role of police legitimacy to the satisfaction of the facilitator. 3. Given a role playing activity, students will be able to apply policy requirements to scenarios involving searches to the satisfaction of the facilitator.	ASSESSMENT TECHNIQUE 1. Facilitated Discussion 2. Group activity and Facilitated Discussion 3. Role Playing and Facilitated Discussion									

COURSE DESCRIPTION FTO's will be provided with information regarding BPD policy requirements regarding searches. They will analyze the role of police legitimacy and apply policy requirements to scenarios involving searches.
MPCTC OBJECTIVES (if applicable) None
INSTRUCTOR MATERIALS Copy of this lesson plan PowerPoint presentation
TECHNOLOGY/EQUIPMENT/SUPPLIES NEEDED 1 Computer w/PowerPoint and internet access (for group/individual feedback questions). (Set the computer up in dual-screen mode so that the interactive portion can be brought over to the projected screen) 1 Projector 1 Projector screen (mirrored screens required for larger audience size) 1 bag of simulated CDS 1 tool resembling folding knife
STUDENT HANDOUTS None
METHODS/TECHNIQUES Lecture PowerPoint Presentation Collaborative Group Discussion Live Demonstrations Scenario-based Application
REFERENCES 2021 Field Training Plan 2021 Field Training Policy 212 Draft Baltimore Police Department policies: Policy 906, Traffic Citations Policy 1108, DUI/DWI Arrest Procedures Policy 1106, Warrantless Arrest Procedures and Probable Cause Standard Policy 1104, Arrest Warrants Policy 1013, Strip Searches & Body Cavity Searches Policy 1114, Persons in Police Custody Policy 1002, Securing and Interviewing Witnesses Policy 1105, Custodial Interrogations Policy 1007, Search and Seizure Warrants Policy 1109, Warrantless Searches Policy 1505, Foot Pursuits Policy 317, Fair & Impartial Policing Policy 720, Interactions with LGBTQ Individuals

Maryland constitutional and procedural law related to seizures
Federal constitutional and procedural law related to seizures

Partial list of relevant cases:

Katz v. United States, 389 U. S. 347, 357 (1967) (expectation of privacy)

United States v. Jones 565 U.S. 400 (2012) (trespass theory of 4th Amendment search)

Partial list of relevant cases:

Search incident to Arrest

Arizona v. Gant (2009) (vehicle, limits on Chimel)

Chimel v. California, 395 U. S. 752 (1969)(generally)

New York v. Belton, 453 U. S. 454 (1981)(vehicle SIA)

Frisk:

Arizona v. Johnson, (2009) (passenger, gangs)

Sibron v. New York, 392 U.S. 40, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968)

Graham v. State, 146 Md. App. 327, 358-59, 807 A.2d 75 (2002)

McDowell v. State, 407 Md. 327, 341, 965 A.2d 877 (2009) (extent)

State v. Smith, 345 Md. 460, 465, 693 A.2d 749 (1997)(scope)

Ames v. State, Court of Special Appeals (2017)(Moylan overview)

State v. Sizer (2016)(frisk of bag)

Sellman v. State (list of factors)

Frisk of Vehicle:

Michigan v. Long, 463 U. S. 1032 (1983)

McDowell v. State (2009) Frisk of container in vehicle

Cross v. State CoSA (2005) locked glove compartment

Probable Cause Search of Vehicle:

United States v. Ross, 456 U. S. 798, 820–821 (1982)

Wyoming v. Houghton, 526 U.S. 295, 301 (1999)

Inventory Search:

Colorado v. Bertine, 479 U. S. 367, 372 (1987).

Florida v. Wells, 495 U. S. 1, 4 (1990)

GENERAL COMMENTS

This lesson plan is intended for use with experienced instructors who have significant teaching experience, moderate technology experience, and exceptional knowledge of 4th Amendment law.

Lesson Plan Checklist (Part 1)

Format	Yes	No	N/A
1. All sections and boxes are completed.	X		
2. Performance objectives are properly worded and included in content.	X		
3. Assessment techniques are aligned with performance objectives.	X		
4. Copies of handouts and other instructional aids (if any) are included.			X
5. References are appropriate and up-to-date.	X		
6. Instructions to facilitators are in the right-hand column.	X		
7. Content is in the left-hand column.	X		
8. Timing of instructional content and activities is specified.	X		
9. Instructional content and PowerPoint slides are consistent & properly aligned.	X		
10. Student engagement/adult learning techniques are included.	X		
a. Instructional content is not primarily lecture based.	X		
b. Questions are posed regularly to engage students and ensure material is understood.	X		
c. Case studies, role-playing scenarios, and small group discussions are included where appropriate.	X		
11. Videos are incorporated.		X	
a. Video introductions set forth the basis for showing the video and key points are highlighted in advance for students.			X
b. Videos underscore relevant training concepts.			X
c. Videos do not contain crude or offensive language or actions that are gratuitous or unnecessary.			X
d. Videos portray individuals of diverse demographics in a positive light.			X
12. Meaningful review/closure is included.	X		
a. Important points are summarized at the end of lesson plan.	X		
b. Assessments are provided to test knowledge of concepts.	X		

Lesson Plan Checklist (Part 2)

Integration	Yes	No	N/A
13. Does the lesson incorporate BPD technology?	X		
14. Does the lesson plan integrate BPD policies?	X		
15. Does the lesson reinforce BPD mission, vision, and values?	X		
16. Does the lesson reinforce the Critical Decision-Making Model?	X		
17. Does the lesson reinforce peer intervention (EPIC)?		X	
18. Does the lesson incorporate community policing principles?		X	
19. Does the lesson incorporate problem solving practices?	X		
20. Does the lesson incorporate procedural justice principles?	X		
21. Does the lesson incorporate fair & impartial policing principles?	X		
22. Does the lesson reinforce de-escalation?			X
23. Does the lesson reinforce using most effective, least intrusive options?	X		
24. Does the lesson have external partners involved in the development of training?		X	
25. Does the lesson have external partners in the delivery of training?		X	
Subject Matter Expert: Sgt. Josh Rosenblatt and Timothy Dixon	Date: August 5, 2021		
Curriculum Specialist: Danalee Potter	Date: April 19, 2021		
Reviewing Supervisor: Sgt. Kara Gladden	Date:		
Reviewing Commander: Lt. Michael Brinn	Date:		

COURSE TITLE: Field Training Officer Program

LESSON TITLE: Searches Overview

PRESENTATION GUIDE	FACILITATOR NOTES						
I. ANTICIPATORY SET Slide 1: SAY: Hello. My name is.....and I've been with the Baltimore Police Department foryears.	Time: 10 min Slide 1: <i>The facilitator should briefly introduce themselves and provide a brief summary of their experience and background with the Department.</i> 						
Slide 2: SAY: The aim of this lesson is to: • Enable FTOs to explain BPD policy requirements for various types of searches to trainees. • Enable FTOs to ensure that trainees are applying BPD policy requirement when conducting various types of searches. Assure that FTOs impart to trainees the potential impact of various types of searches on public trust.	Slide 2: 						
Slide 3: Searches Remind the FTOs that :there are two kinds of searches, Warrant Searches; and Warrantless Searches. This discussion is about how to ensure that trainees understand and apply BPD policy and the law properly to warrantless searches. ASK: What is the best way to ensure that a search is within policy and law?	Slide 3: When can you conduct a search? <table border="1"> <tr> <td>Weapons Pat Down</td> <td>Arrest</td> </tr> <tr> <td>Consent</td> <td>Exigent</td> </tr> <tr> <td>PC Vehicle</td> <td>Inventory</td> </tr> </table> Requires either: • A search warrant (preferred) - OR a recognized exception to the warrant requirement such as: • Weapons Pat Down • Search Incident to Arrest • Consent • Exigent Circumstances • PC Search of a Vehicle • Community Caretaking (Inventory searches, etc) Desired Response: Obtain a search warrant whenever possible.	Weapons Pat Down	Arrest	Consent	Exigent	PC Vehicle	Inventory
Weapons Pat Down	Arrest						
Consent	Exigent						
PC Vehicle	Inventory						

SAY: There are times when a search warrant either can't be obtained or it is unreasonable to obtain one under the circumstances. Trainees should understand that these are the only exceptions within BPD policy and the law. When in doubt whether an exception to the Search Warrant requirement exists should take the time to obtain a Search Warrant. BPD Policy 1007 covers Search and Seizure Warrants. Impart to your trainees that warrantless searches aren't a test of doing the most you legally do without obtaining a warrant; they're a way of protecting the community and letting the community know that we're there to protect them. ASK: How would you define the legal and practical meaning of the term "search" to a trainee? ASK: How would you explain how a legal search might impact public trust and police legitimacy? SAY: People expect to be secure in their "houses, papers, and effects." They expect police to operate within the law. Remember, it was government intrusion by the British that led Americans to declare their independence and to put the Bill of Rights in the U.S. Constitution.	Response: <i>Refer to the exceptions on Slide 3. You may need to remind FTOs that inventory searches are not a separate category of searches but fall within community caretaking functions and are not used to search for evidence.</i> Desired Response: ● An intrusion into an area where someone has a reasonable expectation of privacy ● It can also happen when you trespass on someone's property with the intent to discover evidence (such as when you put a GPS tracker on someone's car) Desired Response: Yes, searches both positively and negatively impact citizens. Positive impact of searches are that they are done to protect the officers and the public as well as to gather evidence of crimes. However, there are negative impacts if the officers conducted the search without the requisite legal authority or without "fairness" and "impartiality"
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II. INSTRUCTIONAL INPUT (CONTENT)

Slide 4: Group Exercise

SAY: Before we get into several different types of searches, here are some basic requirements. Officers conducting searches adhere to procedural justice principles and fully document their actions.

For each of these requirements, identify the Procedural Justice pillar that it supports.

ASK: Which of these support Dignity?

ASK: Which of these support Transparency?

ASK: Which of these support Trustworthiness?

ASK: Which of these support Voice?

Slide 5: Group Exercise:

SAY: Ok, now let's use the chart you created. Let's discuss Weapons Pat-Downs. At your table right down how you would explain this type of search to trainees. What words or terms and/or actions come to mind?

I will give you about 5 minutes. You may begin.

Time: 1 hour 30 min.

Slide 4:



Desired Responses:

- Search courteously
- Use professional language
- Minimize disruption
- Return to pre-search condition

Desired Responses:

- Explain the reason for the search
- Document searches
- Use BWC

Desired Responses:

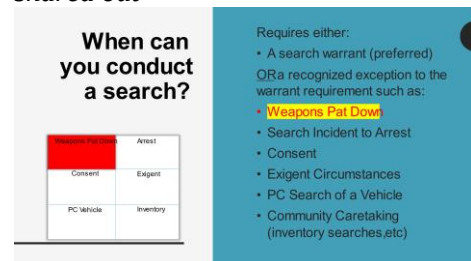
- Use professional language
- Minimize disruption
- Return to pre-search condition, if possible.

Desired Responses:

If safe and feasible, allow the citizen to be heard before or after the search. Also, ensure that the citizen's concerns and statements are captured on BWC.

Slide 5:

Content on this slide is hidden. Do NOT reveal it until the group has shared out



SAY: Ok, time's up. Group 1, please share out what you wrote down for Weapons Pat Down. Remember we are only discussing Weapons Pat Downs at this point.

Slide 6

SAY: It's important to reiterate to trainees that a weapons pat-down is NOT a full search. It is MINIMALLY intrusive, but still allows you to determine whether a weapon is present. It is ONLY done for safety, not to search for contraband or other evidence of a crime. It does NOT matter whether the weapon is legal or illegal (because it's about safety) the weapon may be secured.

ASK: If you and your trainee see a person walking down the street and you the person is armed and dangerous, committing, about to commit, or has committed a crime,

As the group shares out, ask guiding questions to probe the contours of the below lesson.

Advance to slide once the group has covered the topic and ask instructor questions below to the class and/or group.

After 5 minutes

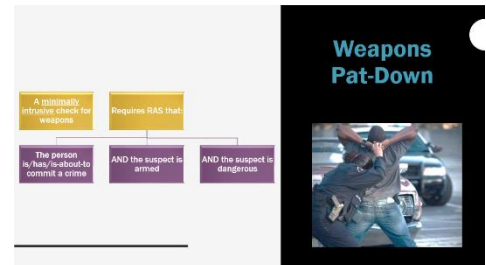
Have Group 2 teach out the Weapons Pat Down. As they do so, ask guiding questions to probe the contours of the below lesson.

Desired Responses:

- Must have RAS that the person is Armed and Dangerous, committing, committed, or about to commit a crime
- PC not required, only RAS
- Limited search for weapons only
- Pat down of the outer garments for weapons
- Cannot manipulate clothing to search for contraband

Look for acknowledgment or address student concerns.

Slide 6:



Desired Response:

Articulation of the characteristics of an armed person: Explain printing, blading of body, security checks,

when safe, how would you instruct the trainee to articulate the RAS for the weapons pat down.

ASK: You see someone that you believe is armed and dangerous with a handgun. If you had the time and the scene was now safe. How would you initiate a discussion with the trainee to discuss their observations of the RAS was for the Weapons Pat Down?

SAY: Let's talk about Weapons Pat-downs, containers, and contraband.

DEMONSTRATION

SAY: You're now going to practice guiding your trainee through a pat down. As you conduct a pat down, I want you to verbally state how you would walk your trainee through the process. This about the following questions:

1. What would you say to a trainee that discovers a container that is clearly not a weapon during the pat down?
2. What about if during the pat down the trainee feels what she believes to be immediately apparent is contraband, how would you instruct her to proceed?

unexplained or irrational behavior, viewing an actual weapon.

Desired Response:

- Review BWC as it can help re-affirm your observations
- Discuss the characteristics that you saw during the same time frame and context that the trainee saw.
- Ask questions about characteristics, if any that the trainees missed for officer safety and court preparation
- Discuss appropriate tactics and strategies used to disarm the suspect

*Choose a volunteer
The facilitator should have the following hidden on him: 1 tool resembling folding pocketknife and 1 BAG of simulated CDS in pocket.*

*Student Demonstration:
Have a police instructor participate as the suspect. The instructor should be armed with a knife and CDS in separate locations on their person. The knife should be easily located. The drugs should be in a container that does not feel like a weapon by touch or feel cannot be determined to be immediately apparent to have contraband in it. Also, have the*

ASK: How do you explain the legal reasoning to the trainee for completing the weapons pat down before going back to the CDS that was felt and immediately apparent as contraband?

SAY: For that reason, the officer must FIRST pat down the suspect to determine if they are armed and dangerous, committing, committed, or about to commit a crime.

If during the pat down the officer encounters what they can articulate from their training and expertise to be immediately apparent as illicit drugs they may seize it after the pat down is completed. At that point, the search becomes a search incident to arrest (based on the PC that the person possesses CDS or other contraband).

Slide 7:

SAY: Containers that clearly could not have weapons inside should not be opened or seized in this situation unless it is a search incident to arrest.

You may pat down a container for weapons (and ONLY weapons) if you have RAS that the container could contain a weapon and :

instructor have what would be considered contraband immediately apparently if felt by a trained officer.

Have an FTO perform the pat down and verbally instruct another as if the second FTO is a trainee.

Desired Responses:

- Weapons can be seized immediately
- Contraband can be seized if it is immediately and apparently determined to be contraband after the weapons pat down is complete, because the search is based on RAS for a weapon. If this was a search for anything else, PC for an arrest would be required which you can develop during the pat down if you feel something that you know is contraband. You must articulate that during the pat down the PC for the arrest was developed because what you touched was immediately apparent as contraband based on your experience and expertise.

Slide 7:

A weapons pat down may only include a container IF:

- It's within reach
 - AND it could contain a weapon
 - AND it can't be safely moved somewhere
- OR it can't be safely returned



Note: If you develop RAS that there is a weapon within the container, you may check the interior of the container FOR THE WEAPON ONLY and separate the weapon from the suspect.

- It is within the reach of the suspect
- AND it can't be safely separated from the suspect or returned to the suspect at the conclusion of the stop

All weapons or dangerous items that can be used as a weapon may be removed and secured, whether the item is illegal or not.

SAY: Let's talk about how you might instruct a trainee on how to handle a situation where there is RAS for a weapons pat-down and the suspect has a bag, purse, satchel, or another kind of containers.

ASK: How would you explain it to them?

ASK: How would you instruct the trainee if the suspect is armed and dangerous and identifies as a different gender than the searching officer?

SAY: Just a final point on Weapons Pat-downs, a weapons pat-down IS a search, it is a limited search (it's an intrusion into someone's reasonable expectation of privacy), you must justify it with more than a citizen contact slip. Anyone performing a weapons pat down must write a report.
It's important to avoid boilerplate language in your report:

Desired Responses:

Is the container on their person or within their lunge reach or grasp? If so, the container may be patted down. If the container is not able to be patted down because it is hard or has items inside that prevent the officer from determining from the pat down whether the container has a weapon in it, the officer may open it and look in and if looking in is not sufficient to determine whether it contains a weapons, you may remove the items to ensure it would be safe to return it to the person.

Desired Response:

A weapons pat-down should be same-gender if that is possible and reasonable. However, since you only do a weapons pat-down based on RAS that the suspect is armed and dangerous, if a same-gender officer is not readily available, you are not required to wait for one to arrive.

- Not “he fit the characteristics of an armed person,” but “I saw the outline of a gun under his shirt”
- “Not he bladed his body away from me,” but for example, “he continued to turn his right side from my view. As I repositioned myself he continued to move his right side away from me as if he was trying to hide or conceal something.”

Not, “he performed a security check.” But, more like, “he used his right forearm to adjust something on that I could not see along his waistband to make sure he would not drop or lose it.

Slide 8:

SAY: Perhaps, the most common searched utilized by police officers is Search Incident to Arrest.

Slide 9:

ASK: What’s the purpose of a search incident to arrest?

Slide 8:

Content on this slide is hidden. Do NOT reveal it until the group has shared out

When can you conduct a search?

Weapons Pat Down	Consent
Exigent	Inventory
PC Vehicle	

Requires either:

- A search warrant (preferred)
- OR a recognized exception to the warrant requirement such as:
 - Weapons Pat Down
 - **Search Incident to Arrest**
 - Consent
 - Exigent Circumstances
 - PC Search of a Vehicle
 - Community Caretaking (inventory searches, etc)

Slide 9:

Search pockets

Search property on the person

Ok to adjust clothing as long as it doesn't expose private area or undergarments (other than waistband)

Search Incident to Arrest

Desired Responses:

- Look for weapons
- Look for evidence of the crime
- Look for contraband

Prior to the arrestee being processed and charged..

Slide 10:

Slide 10:

SAY: Besides searching the arrested person's garments, you can search the area within the suspect's IMMEDIATE reach, lunge, or grasp

- Anywhere the suspect could immediately reach to grab a weapon, hide/destroy evidence, or could have hid contraband.
- Once the suspect is moved from the area, you CANNOT search where the suspect was, but isn't anymore

ASK: If this man was being placed under arrest, where could you search incident to the arrest?

Slide 11:

SAY: As you know part of an arrest, you are allowed to perform a protective sweep of the premises where a suspect is arrested. This sweep is search for officer safety and that of the arrestee for PEOPLE who might be able to interfere/endanger the arrest. The sweep may be of immediately adjoining rooms and other locations on the premises where you have RAS that there are other people who might present a danger to you, the arrestee, or others present. You may search only where a person could reasonably be found.

Once the arrest has been completed and the area is secured, no protective sweep of the premises is allowed.

Slide 12

SAY: Understanding, the law and BPD policy as it applies to protective sweeps, that normally you may search within the room and the reach, lunge, and grasp of the suspect incident to the arrest. You may then search any adjoining or connected rooms as they might conceal a person that could present a danger to those present any adjoining rooms. However, to search any other areas of the premises you need RAS that someone might be in that area that might pose a danger to those present.

Searching the IMMEDIATE AREA incident to arrest



- Anywhere the suspect could immediately reach to grab a weapon or hide/destroy evidence.
- Once the suspect is moved from the area, you can NOT search where the suspect was (but isn't anymore)

Desired Response:

His person, under the bed, around the room, on/under the chairs, etc., anywhere there could be weapons, contraband, or evidence related to the crime for which he is being arrested.

Slide 11:



Slide 12



GROUP ACTIVITY

ASK: Brainstorm, using your experiences make a list of things that have indicated to you there were people who posed a threat or risk of danger to you or others from rooms or other locations of premises warranting a protective sweep of the premises.

(3 Minutes)

Slide 13 :

SAY: Normally, that's the only consideration.

HOWEVER, with vehicles there's a special exception to the search incident to arrest. Once the driver is secured, you can search the passenger compartment of a vehicle incident to arrest if there is reasonable, articulable suspicion that evidence **RELATED TO THE ARREST** will be found there. Remember: this search is limited to the passenger compartment, unless the person accessed other parts of the vehicle and is only if there's RAS that evidence related to the arrest is in there.

ASK: If you and a trainee made an arrest for a suspended license only and he was no longer in or had access to the vehicle. What would you tell a trainee regarding searching the car incident to arrest?

ASK: For which types of crimes might you arrest a driver and have RAS that there is evidence relating to the crime in the passenger compartment of the car?

Expected Results:

Saw more people, told of people, noises, smells, food cooking, dog barking, baby crying, water running, toilet flushing, TV, music, incense, etc.

Slide 13 :

Search of a Vehicle Incident to Arrest



Police may search the passenger compartment incident to a recent occupant's arrest **only if**:

- RAS the car contains evidence related to the arrest

OR

- The suspect is unsecured AND in reach of that area

Desired Response:

No. There's no reasonable chance that he could access his car, so that part of the search incident to arrest doesn't come into play. The vehicle may only be searched incident to arrest if the driver was a recent occupant and was unsecured in reach of the passenger compartment of the vehicle or there is RAS of evidence relating to the arrest would be in the car.

Desired Response:

- Crimes that occurred using the vehicle, crimes where the occupant recently exited or entered the vehicle during the commission of the crime.
- If the person was handcuffed and there's no RAS that there's evidence related to the crime that they're being arrested for inside the vehicle and they're handcuffed and no longer have access to the

Slide 14:

SAY: Let's discuss consent searches and some challenges when using this form of a warrantless search.

Slide 15 :

ASK: How would you explain to a trainee BPD policy and the law regarding consent searches?

ASK: How can we make sure we're conducting consent searches in a way that improves public trust and police legitimacy?

vehicle, then the vehicle should not be searched.

- BPD Policy 1109 states that a warrant is always preferable to a warrantless search

Slide 14 :

When can you conduct a search?

Weapons Pat Down	Arrest
Consent	Exigent
PC Vehicle	Inventory

Requires either:

- A search warrant (preferred)
- OR a recognized exception to the warrant requirement such as:
 - Weapons Pat Down
 - Search Incident to Arrest
 - **Consent**
 - Exigent Circumstances
 - PC Search of a Vehicle
 - Community Caretaking (inventory searches, etc)

Slide 15 :

When can you ASK for consent?

FAIR POLICING

RIGHT • VOICE • TRANSPARENCY • TRUST • ACCOUNTABILITY

BEFORE requesting consent to search for evidence, you need:

RAS that a crime has been, is about to be, or is being committed

RAS that either:

- the person is involved in the crime
- OR they have possess evidence
- OR evidence of a crime is in the place to be searched

Desired Response:

A search done where someone has voluntarily given you permission to search a place over their person, place, or property which they have authority and control over. To ask for consent to search members must have RAS that a crime is being, has been, or is about to be committed.

Refer to "Fair" and "Impartial" posters

Desired Response:

- Ensure they are voluntary
- Do not overuse them
- Incorporate voice, respect, impartiality, trustworthiness

Slide 16:

SAY: Remember that Yes + No = No? How would you explain a situation where two equals are present and one give consent to search and the other objects?

ASK: If you and a trainee face a Yes + No situation after having RAS there is evidence of a crime in the place you want to search, what could you do in order to gain lawful access to the evidence?

ASK: What kind of information does an officer need to know to determine if someone has authority to give consent? What questions should the officer ask?

Slide 16:



Desired Response:

Yes + No = No means that if both persons present have equal actual authority over the property or place to be searched and one of them objects then you cannot use consent as a method for warrantless searches.

Desired Response:

You could ask the Yes party (consenting person) what the evidence is, if they know. You could ask them what they have seen, heard, smelled, touched, etc. You could then use the information gained from them to obtain a search and seizure warrant. You may also consider "freezing" or securing the location to ensure the evidence is not tampered with or lost. This could also be used as a tool when a parent consents and a child refuses to consent to a search of a child's room or possessions.

Possible Responses:

- Who is the owner/renter of the premises/item? Who lives there?
- How old is the person you are asking?
- Why is the person in possession of the item/premises right now?
- Are there limits on what she can do with it/in it?

- Who has the key? Who has access? With or without prior permission?
- Who pays the bills?
- Who has the right to exclude others?
- Who keeps their personal possessions there?
- Are they a resident or merely a guest or infrequent visitor?
- Are there language, communications or other barriers? If so, refer to Policy 1103, Communicating with Individuals who are Deaf and Hard of Hearing or Policy 1735, Language Access Services for Limited English Proficient (LEP) Persons. Obviously, any person with a disability that prevents them from giving consent cannot give a valid consent under any circumstances.

Slide 17:

SAY: As you recall, consent to search must be established prior to the search. There are factors that might affect whether the consent is voluntary.

ASK: What are some considerations regarding the voluntariness of consent searches that you might make a trainee aware of?

Slide 17:

Establishing Consent



- The search must be voluntary no threats or other form of coercion.
- The scope must be established and respected
- The consenting person must be able to stop the search at any point

Possible Responses:

- Officer's words and tone of voice may not threaten or intimidate
- Number of officers present
- Any weapons displayed?
- Any consideration or promises made in exchange for the consent?
- Where is the encounter taking place?
- Is the person detained or under arrest?

ASK: How could an officer overcome the appearance that a search was not consensual?

Slide 18:

SAY: Consent searches should be conducted using the Permission to Search, Form 29. Please tell us how you would explain to a trainee why BPD form 29 should be used for consent searches whenever possible.

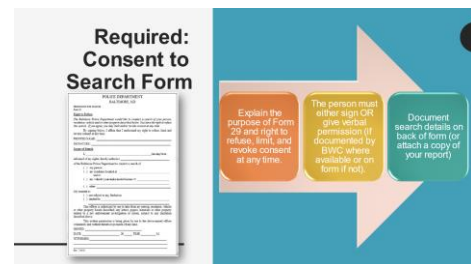
ASK: What other BPD forms or reports may need to be completed if a consent to search is completed?

- Consider any language barriers that might exist. If the person requests further explanation of their rights or if it is apparent that the person giving consent has difficulty reading or understanding their rights, the member shall explain until the person acknowledges their full understanding of the consent. If applicable, refer to Policy 1103, Communicating with Individuals who are Deaf and Hard of Hearing or Policy 1735, Language Access Services for Limited English Proficient (LEP) Persons.

Desired Responses:

- Careful explanation.
- Avoid any suggestion that they have to consent.
- Tell the person that it is their option, they do not have to consent.
- Record their consent on BWC
- Use BPD consent to search Form 29

Slide 18:



Desired Response:

- Incident Report for Consent Search
- Form 29
- Property submissions
- Photographs
- BWC footage stored and uploaded for court

Slide 19:

SAY: Let's talk about Exigent Circumstances.

Slide 20:

SAY: Exigent circumstances is a category of warrantless searches in which a search is justified by the risk of harm that waiting to get a search and seizure warrant would cause. It is important to weigh the intrusion against the threat.

ASK: Define exigent circumstances in plain terms. What are the potential consequences of exigent circumstance based searches for public trust and support? Positive? Negative?

Slide 21:

SAY: The CDM should be second nature to you. Whenever possible, slow down and carefully review the situation. And even if quick action might be required, you should follow the model:

- Collect information
- Assess the situation
- Consider authority and policy
- Identify options
- Act, review, and re-assess

Slide 19:

When can you conduct a search?

Weapons Pat Down	Arrest
Consent	Exigent
PC Vehicle	Inventory

Requires either:

- A search warrant (preferred)
- OR a recognized exception to the warrant requirement such as:
- Weapons Pat Down
- Search Incident to Arrest
- Consent
- **Exigent Circumstances**
- PC Search of a Vehicle
- Community Caretaking (inventory searches, etc)

Slide 20:



Exigent Circumstances

A warrantless search justified by the risk of harm that waiting to get a warrant would cause.

Possible Responses:

Can be positive – police acting quickly and taking action to prevent harmful things from happening, such as entering the premises to assist people in danger or to collect evidence of a crime that might otherwise be lost forever.

Slide 21:

All guided by ethics, values, proportionality, and the sanctity of human life. When deciding whether exigent circumstances justify a warrantless search, it is important to weigh the intrusion against the threat.

Slide 22:

SAY: One type of exigent circumstances search is justified based on a threat of harm – to you or to others. Again, weigh the intrusion against the threat.

ASK: What are some examples of:

- Ensuring safety of a person;
- Ensuring safety of officers;
- Ensuring safety the public;

that you would cite to a trainees threat of harm to a person?

Slide 23:

SAY: Another example of exigent circumstances relates to destruction of evidence.

- Limited to evidence of a felony.
- Do NOT seize the evidence unless there's a threat to safety or preservation of the evidence.
 - Secure the premises and the evidence, freeze the scene, allowing uninvolved occupants to leave.
- Await the arrival of a search warrant.

SAY: There are some specific requirements for justifying this kind of search:

- You must have probable cause that there is evidence of a crime in the residence.
- You must have a substantial reason to believe waiting for a search warrant would result in the destruction of that evidence.
- The exigent circumstances (evidence is about to be destroyed) CANNOT be caused by an illegal police



Slide 22:

Threat of Harm to a Person



Justified by reasonable belief that entry is required to:

- Ensure safety of a person
- Ensure safety of officers
- Ensure safety the public

Weigh the intrusion of entry against the need to make entry

Desired Response:

Obvious public safety situations to include criminal activity where the officer may reasonably believe a person to be in physical danger.

Slide 23:

Threat of Destruction of Evidence



- Limited to evidence of a felony
- Do NOT seize the evidence (unless exigent circumstances require it)
- Secure the premises and the evidence

After the scene is "frozen":

- Allow uninvolved occupants to leave
- Await the arrival of a search warrant

action, such as threatening to come in when you don't have the right to do so.

ASK: Why do you think exigent circumstances searches relating to the destruction of evidence is limited to evidence relating to felonies, NOT MISDEMEANOR?

ASK: Why do you think BPD policy is to "freeze" the scene and obtain a warrant prior to seizing the evidence, if possible?

Slide 24:

SAY: A third type of exigent circumstance relates to entering dwellings or buildings when in hot pursuit. BPD has some policy changes related to hot pursuit of a suspect. Let's go over what you already know

- Limited to fleeing FELONS ONLY -- You may NOT make entry pursuing misdemeanants unless there is a threat of harm to a person
- "Hot pursuit" does NOT mean you have to make INSTANT pursuit
 - Wait for backup prior to making entry
 - Use your radio and resources
 - Emphasize safety
 - Do not "force" unsafe situations

ASK: Can you pursue an individual with a handgun that runs into a house? What might you consider prior to doing so?

Also, the Supreme Court just decided that you can't enter a suspect's home without a warrant just to apprehend them for committing a misdemeanor, if no other exigent

Desired Response:

Because to intrude into someone's home without a warrant is a serious legal issue it should only be done when there is no time to get a search and seizure warrant and you can explain it.

Desired Response:

The objective is to prevent destruction of the evidence. Once that is accomplished, the exigency is over and there's time to get a warrant.

Slide 24:

Hot Pursuit

Limited to fleeing FELONS ONLY

- misdemeanants only if there is a threat of harm to a person

"Hot pursuit" does NOT mean you have to go in right away

- Wait for backup prior to making entry
- Use your radio and resources
- Emphasize safety
- Do not "force" unsafe situations

Desired Responses:

- Use the CDM
- It's a misdemeanor, but you can only make entry if there's threat of harm to a person.

circumstances are present. (Lange v. California, 594 US __ (2021)).

Slide 25:

SAY: Let's talk about PC Searches of a Vehicle.

Slide 26:

SAY: Without a search warrant, an officer can generally search a vehicle when:

- the officer has probable cause that the vehicle contains either evidence of a crime OR "always illegal" contraband (such as a large quantity of illegal drugs); AND
- the vehicle is mobile or readily mobile; AND
- the officer has lawful access to the vehicle (for example, it is not parked in someone's garage).

ASK: What is the SCOPE of a PC search of a vehicle?

- Considerations include time between them making entry and you making entry (danger of ambush), your ability to establish a perimeter and safely de-escalate, etc.

Slide 25:

Content on this slide is hidden. Do NOT reveal it until the group has shared out

When can you conduct a search?

Weapons Pat Down	Arrest
Consent	Exigent
PC Search	Inventory

Requires either:

- A search warrant (preferred)
- OR a recognized exception to the warrant requirement such as:
 - Weapons Pat Down
 - Search Incident to Arrest
 - Consent
 - Exigent Circumstances
 - **PC Search of a Vehicle**
 - Community Caretaking (inventory searches, etc)

Desired Responses:

Requires either:

- A search warrant (preferred)
- OR a recognized exception to the warrant requirement such as:
- Weapons Pat Down
 - Search Incident to Arrest
 - Consent
 - Exigent Circumstances
 - PC Search of a Vehicle
 - Community Caretaking (inventory searches, etc)

Slide 26:

GROUP ACTIVITY

List on a piece of paper where you could search a vehicle for drugs.

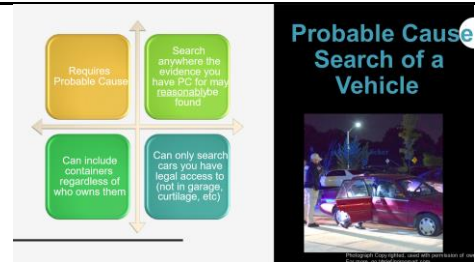
Slide 27:

SAY: When practical, seek consent to the search prior to searching a movable vehicle without a warrant. Make clear that you have probable cause and will conduct the search but ask them if they are willing to cooperate. Members are encouraged to seek a Search Warrant where practical prior to conducting a search that will likely cause damage to a vehicle.

For example: “Sir, we have probable cause to search your vehicle. Before we conduct the search, is there anything you would like to volunteer about what is inside?”

Slide 28:

SAY: Let’s discuss Community Caretaking. They are intrusions into a person’s motor vehicle for the public good, not for evidence of a crime. However, if you come across evidence of a crime, including contraband, it may be used



Desired Responses:

- If probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the evidence for which you have PC is within the vehicle.
- This applies broadly to all containers within a car, without regard to ownership.
- But remember “the object of the search” – if it’s a crowbar or a baseball bat, you wouldn’t be justified opening a small box.

Desired Response:

Anywhere where drugs could be to include the entire vehicle and all containers within the vehicle regardless of who ownership.

Slide 27:

Vehicle Search Considerations



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- When practical, first seek consent
- Make clear that you have probable cause and will conduct the search, but ask them if they are willing to cooperate

against those who have an ownership interest in the property.

Slide 29:

SAY: An inventory search is NOT conducted to look for evidence; it is conducted to preserve order and protect the property of citizens. This is done to protect the public against potential hazards in the vehicle and safeguard the department and members against potential property loss claims.

When members legally take a container into their possession (whether to tow, take to ECU, etc), they must conduct an inventory search of the container and everything inside the container.

SAY: Inventory searches are performed to:

- protect an owner's property while it is in the custody of the police
- ensure against claims of lost, stolen, or vandalized property
- And guard the police from danger related to seized property

NOTE: An inventory search is NOT a search for evidence.

ASK: After you have arrested the driver of a vehicle, will you perform an inventory search of his car? How about if a person is sick or injured and taken away by ambulance?

Slide 30:

SAY: To discourage “fishing expeditions,” inventory searches are only allowed where officers are guided by standard procedure.

Our procedure:

- Owners can generally take possession of personal property prior to tow/submission

Slide 28:

When can you conduct a search?

Weapons Pat Down	Arrest
Consent	Exigent
PC Vehicle	Inventory

Requires either:

- A search warrant (preferred)

OR a recognized exception to the warrant requirement such as:

- Weapons Pat Down
- Search Incident to Arrest
- Consent
- Exigent Circumstances
- PC Search of a Vehicle
- Community Caretaking (inventory searches, etc)

Slide 29:

Inventory Searches



An inventory search is performed to:

- protect an owner's property while it is in the custody of the police
- ensure against claims of lost, stolen, or vandalized property
- guard the police from danger related to seized property

NOTE An inventory search is NOT a search for evidence.

Desired Response:

- If we are taking a container into our possession (tow, ECU, etc), conduct an inventory search of the container
- Inventory everything inside the container, opening closed containers to ensure there are no hazardous items.

ASK: What is our standard procedure when it comes to inventory searches?

ASK: Where would you instruct a trainee to be reasonable places to search during an inventory of a vehicle?

ASK: What if you find a locked briefcase in the trunk of a car that you're having towed to city yard? How would you explain to a trainee the process for handling this situation?

ASK: What if you found contraband or evidence of a crime after forcing open the briefcase?

No. Not unless the vehicle or property has to be is taken into police custody or towed .

Slide 30:

Inventory Searches

Inventory searches are only allowed where officers are guided by standard procedure

Our procedure:

- Owners can generally take possession of personal property prior to tow/submission
- If we are taking a container into our possession (tow, ECU, etc), conduct an inventory search of the container
- Inventory everything inside the container, opening closed containers

Desired Responses:

See Policies 902 and 1506.

Members should remember to open and inventory all closed containers before we have the vehicle towed or the item submitted to ECU in order to:

- protect an owner's property while it is in the custody of the police
- ensure against claims of lost, stolen, or vandalized property
- And guard the police from danger related to seized property

NOT a search for evidence

Desired Responses:

- Glove compartment
- Center console
- Under seats
- Trunk
- Anywhere that anything of value could reasonably be found.

Desired Response:

Because it is necessary to protect the owner's valuables and protect us from

	submitting hazardous materials, you would open it the case, even by force, to inventory it. Include this in the report. Desired Response: The owner of the case may be charged with a crime if the evidence may be used against them.
III. REVIEW/EVALUATION/CLOSURE Slide 31: SAY: Let's quickly summarize the main points of each of the primary search-warrant exceptions. List the 6 types of warrantless searches we discussed today. List 2 important things about each that you plan to instruct your trainees about to ensure that they understand BPD policy and the law.	Time: 5 minutes Slide 31:  <i>The facilitator should call on volunteers from each group to call out a few key points of each search warrant requirement.</i>