


GAINESVILLE POLICE DEPARTMENT

GENERAL ORDER

	TITLE Searches		ACCREDITATION CALEA 1.2.4, 1.2.8 (a-d); 70.1.1;
	PROponent UNIT District 1 and District 2 Patrol Operations		PRIOR REVISIONS 07/08/09; 01/09/2020 ATTACHMENT: None
NUMBER 1.4	ISSUE DATE 07/01/98	REVISION DATE: 05/11/2022	TOTAL PAGES 10

I. PURPOSE: This Order defines the scope and limits of the Department’s law enforcement authority regarding searches.

II. POLICY: To protect citizens against unreasonable searches, the Gainesville Police Department and its members shall conduct searches with or without a warrant when it is permissible to do so as established by statutory and case law and, when applicable, judicial review. [CALEA 1.2.4]

III. DEFINITIONS:

Body Cavity Search: also known simply as a cavity search, is either a visual search or a manual internal inspection of body cavities for prohibited materials (contraband), such as illegal drugs, money, jewelry, or weapons. The Gainesville Police Department prohibits body cavity searches.

Strip Search: In accordance with law F.S. [901.211](#), the term “strip search” means having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual or manual inspection of the genitals; buttocks; anus; breasts, in the case of a female; or undergarments of such person. The Gainesville Police Department prohibits strip searches.

Invasive Search: Commonly referred to as a “reach in” search wherein the officer has probable cause to believe the subject has a weapon or contraband concealed on his/her person. Wherein the suspect remains clothed during the search and the suspect’s genitals are not visible to onlookers.

Seizure: The act of taking custody of evidence or contraband.

TIGN- An Acronym for transgender, intersex, and gender nonconforming individuals.

Transgender Identity – a person who utilizes or identifies themselves by gender or persona other than that assigned at birth.

PC: Person in Custody

III. PROCEDURE:

GAINESVILLE POLICE DEPARTMENT

A. Warrants: Searches that require warrants shall be conducted according to Department policy and the legal requirements for the acquisition and execution/return of search warrants.

1. Securing Scene: The member shall ensure that the scene is secured while seeking approval for a warrant; then, if approval is granted, ensure continued security while the warrant is being obtained.

2. Approval Process:

i. A member must obtain approval from his/her supervisor to obtain a search warrant.

a. The supervisor must review the facts of the case/incident to determine if obtaining a search warrant is appropriate.

b. The supervisor must review the methods and resources the member utilized to verify the affidavit information.

ii. The member or the supervisor shall contact the case detective, if applicable, and the State Attorney's Office for the following:

a. Guidance and assistance in writing the affidavit for the warrant and

b. Contacting the judge for signature.

3. Execution: Warrants shall be executed legally and in accordance with the provisions identified by the judge.

i. Warrants shall be executed in a timely manner.

ii. Members shall comply with statutory and case law requirements regarding 'knock and announce' provisions; time-of-day considerations, if any, as well as requirements regarding the reading of the warrant.

iii. Entry Procedures:

a. If an advance surveillance team is at the target site, radio contact shall be made to ensure that the warrant can be served according to plan.

b. The search personnel shall position themselves in accordance with the execution plan.

iv. Notification

a. An easily identifiable police officer shall knock and notify persons inside the search site, in a voice loud enough to be heard inside the premises:

GAINESVILLE POLICE DEPARTMENT

- i. Officers shall knock and announce that he/she is a police officer and has a warrant to search the premises, and that he/she demands entry to the premises at once.
 - ii. This announcement shall include stating at minimum the following: "This is the Gainesville Police Department search warrant, occupants of _____ (state address), open the door."
 - b. Following the knock and announce, officers shall delay entry for an appropriate period of time based on the size and nature of the target site and time of day to provide a reasonable opportunity for an occupant to respond.
 - v. Members shall read the warrant and leave a copy of the warrant, along with an inventory of items removed, with the representative of the place searched, or leave it on the premise if no one is on-scene to accept it.
 - vi. Members shall search only those places and things in which the items of the search may reasonably be found.
4. Uniformed Presence: Whenever a plainclothes team (detectives, SID, etc.) executes a search warrant, one or more uniformed officers [from the jurisdiction where the search is being conducted] should accompany the search warrant team.
- i. The purpose of the uniform presence is to ensure that the occupants of the structure to be searched are aware of the team's police identity.
 - ii. The commander of the team executing the warrant shall make the determination during the detail's planning stage regarding what method (person, vehicle, or both) should be used to indicate a uniformed presence.
 - a. Depending upon the circumstances, the uniformed officers may be used immediately or held in reserve.
 - b. If there is an alternative, such as using a specialty marked vehicle, the uniformed officer may not be needed.

5. High-Risk Warrants: After consulting with a supervisor, the Department member seeking the warrant shall notify the Special Weapons and Tactics (SWAT) Commander, as soon as possible, when aware of the need to execute a high-risk warrant. (Refer to GO 46.4, Special Response Teams, Requesting Assistance).

i. High Risk Warrant Service where the SWAT team is asked to assist in service of the warrant, shall be reviewed and approved by the Assistant Chief of Police in the Patrol Support Bureau, prior to it being served. If he/she is unavailable, the Assistant Chief of Police of the Operations Bureau or the Chief of Police must review and approve the warrant prior to it being served.

ii. Warrant Service (other than High Risk) where the SWAT team is asked to assist in service of the warrant, shall be reviewed and approved only by the Chief of Police. He/she must review and approve the warrant prior to it being served.

iii. When the need to deploy is verified and approved, the Team Commander shall be responsible for activating their team personnel and notifying the SRG Commander, Patrol Support Bureau Commander, and the Assistant Chief of Police in the Patrol Support Bureau. If the Assistant Chief of Police in the Patrol Support Bureau is unavailable, the Assistant Chief of Police in the Operations Bureau or the Chief of Police must be notified.

6. Return: The return shall list all items removed from the premise(s), shall be completed within the time frame specified and then returned to, the judge.

B. Consent: The requirement of a search warrant under the Fourth Amendment may be waived with a voluntary consent to search. This consent may be verbal or written

1. Consent search of a residence: Under normal circumstances, the member should obtain written consent when obtaining consent to search a residence. Anytime a residence is searched, it shall be documented in an Incident Report or Report Supplement.

2. Consent search of a vehicle: Although written consent is preferred, verbal consent is acceptable. Verbal consent should be obtained using some type of audio recording device, such as In-Car Camera or Body-Worn Camera. Anytime a vehicle is searched, it shall be documented in either an Incident Report or a Field Interview Card under heading "SEARCH".

3. Consent to search a person: Although written consent is preferred, verbal consent is acceptable. When possible, verbal consent should be obtained using some type of audio recording device, such as In-Car Camera or Body-Worn Camera. Anytime a person is searched, it shall be documented in either an Incident Report or a Field Interview Card under heading "SEARCH."

C. Warrantless Vehicle Searches: Department members will only conduct warrantless vehicle searches in a legal manner consistent with Department guidelines, state law, and federal law.

1. Incident to a Lawful Arrest: The arrestee must have a valid relationship to the vehicle (e.g., the person was stopped while driving the vehicle; had been hiding in the vehicle; exited the vehicle due to police action, etc.) and then, only when either:

- i. The arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search, or
- ii. It is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.

If the above criterion is met, the officer may search the complete interior [passenger] compartment of the vehicle for the following reasons:

- a. Officer safety,
 - b. To prevent the destruction or loss of evidence,
 - c. To prevent escape.
- iii. Officers may NOT search the trunk (luggage) compartment unless independent probable cause exists OR consent is given.

2. Probable Cause: If an officer has probable cause that a vehicle contains fruits or instrumentalities of a crime or contraband, the entire vehicle, including any containers, may be searched. This type of search should be documented in the *Incident Report*.

3. Odor of Marijuana: The odor of cannabis coming from within a vehicle continues to provide probable cause to search, even though hemp and medical marijuana may have indistinguishable odors. Department members shall refer to [Legal Bulletin 2022-02 Hemp and Odor of Marijuana](#).

Members are required to document all searches and the results. If the incident does not result in an incident or supplemental report, members shall document the encounter as a Field Interview Card under heading "SEARCH."

GAINESVILLE POLICE DEPARTMENT

4. Other: When an officer impounds a vehicle incident to arrest, an inventory of the vehicle will be conducted.

i. A search shall never be conducted under the guise of an inventory. (See GO 84.2).

ii. Although not for the purpose of, or considered to be a search, the inventory may reveal fruits of a crime.

If probable cause develops during an inventory, the vehicle may be searched.

Should exigent circumstances exist and any question about continuing arise (e.g., a major crime has occurred and the concern is destruction of evidence due to continued contact), secure the vehicle and consult a supervisor.

D. Crime Scene: Department members may only search crime scenes when legally permitted to do so under federal and state law, as well as Department policy.

In general, to lawfully search or seize evidence from a crime scene not accessible to the general public, a member must, depending upon the circumstances, either:

1. Obtain consent from the property owner, or

2. Obtain a search warrant:

i. Absent exigent circumstances, a warrant should generally be obtained to search a crime scene.

ii. A member should always obtain a search warrant if the search will be conducted over an extended period of time or when the property belongs to a (potential) defendant.

E. Exigent Circumstances: An officer may enter a structure when he/she has justifiable cause, clearly articulated, that led him/her to believe that waiting for a warrant would unduly compromise the safety of persons, the recovery of evidence, or the prevention or detection of a serious crime.

1. Exigent circumstances that may justify entry into a premise without a warrant are instances when one or more of the following conditions exist (the below list is not exhaustive):

i. Person(s) are in danger,

ii. A felony is being committed,

iii. Evidence or contraband, other than cannabis, is being destroyed,

iv. There is the possibility of the imminent use of a dangerous weapon, such as an active shooter.

GAINESVILLE POLICE DEPARTMENT

2. Members may conduct a limited search of the premise/structure for other victims, suspects, etc., who may be present.

i. The only areas allowed to be searched are those that could reasonably house or conceal the presence of a person.

ii. The decision to search and the nature of the search must be related to the reason for the initial entry.

3. The degree of articulation necessary to justify entry under exigent circumstances will generally be greater for instances that target the preservation of property over those instances in which life is being threatened. Report documentation shall articulate the exigency and surrounding circumstances.

F. Responsibility: Members shall take care to ensure that no property is unduly disturbed, ransacked, damaged, or left in a state of extreme disarray after conducting any search of a vehicle or premise.

Members shall, whenever time and circumstances permit, reposition property, right furniture, close opened doors, containers, and drawers, replace items moved, and otherwise put things disturbed during the course of the search back in a reasonable order.

1. If property is damaged, Risk Management will be notified by a supervisor, (Sgt. or above), by email or phone call. The supervisor will relay the damaged properties; Location, time and date of the damage, the damaged item(s), the owners contact information.

G. Pursuant to Arrest: When a lawful arrest is made, the person being arrested and the area within the arrestee's immediate control may be searched without a warrant for the purposes of discovering weapons and evidence, ensuring the safety of the officer, preventing the subject from escape, or revealing the fruits of the crime.

1. Arrest Notification: Before conducting a search, officers shall clearly inform the person arrested that he/she is under arrest, regardless of whether the officer subsequently releases the person with a citation or takes the person to jail.

2. Persons Searches: Absent exigent circumstances (e.g. hostile crowd, riot situations), persons in custody (PCs) shall be searched prior to being transported. [CALEA 70.1.1]

i. Even if already searched by the arresting officer, a PC should be searched by the transporting officer prior to transport.

ii. Whenever possible, a prisoner shall be searched by an officer of the same gender. When an officer must search a prisoner of the opposite gender, he or she shall utilize the back of the hand around private areas, whenever possible. Transgender Individuals refer to section "H".

iii. Members shall document in the narrative that the PC was searched, by who, and any results, when applicable.

GAINESVILLE POLICE DEPARTMENT

iv. When practical, the preferred method to conduct non-invasive searches is in front of an in-car camera or body worn camera, if available.

v. Invasive Searches/Reach In: If an officer has articulable suspicion that a person in custody is in possession of a weapon, the officer shall seize the weapon immediately and document the occurrence. Strip Searches are prohibited by this policy.

vi. If a person in custody reports having contraband (other than a weapon) in their undergarments, the PC is to be brought to either the GPD sally port or the DOJ sally port. Prior to transport, the Member shall notify a supervisor. Once there, the Member can remove said contraband. The seizure shall be in front of some type of video recording device (ie. In-car camera, body worn camera. The Member shall document the supervisor notification and circumstances of the search and seizure in the report. The arrestee shall be advised if they deny having contraband and it is found after entering the jail they may have additional charges.

3. Within a Structure: If an arrest is made inside a structure, a search can be made of other rooms and closets of the premise to locate other wanted persons/accomplices or to protect the Department member(s) from possible attack.

i. Items of evidence and contraband may be seized if they are in plain view in the immediate area where the arrest occurred or where the member is looking for a suspect(s).

ii. Members shall not search other non-arrest areas/ containers / cabinets, etc., for the purpose of locating evidence.

Members shall only conduct searches of other areas for evidence upon establishing probable cause, obtaining consent to search, or obtaining a search warrant to do so.

4. Outside: Members shall not take a subject who is arrested outside *into* a building or a vehicle in order to search the inside of the premises/vehicle.

5. Vehicle: Refer to the procedures in section 3. Warrantless Vehicle Searches, above.

H. Searches of TIGN Individuals:

1. Members will not stop, detain, frisk, or search any person in whole or in part for the purpose of determining that person's gender or in order to call attention to the person's gender expression.

2. Searches of Transgender and Gender Non-Conforming Individuals shall not be subject to more invasive search procedures than other people based solely on their status as a transgender or gender non-conforming individual.

NOTE: The above limitation does not prevent a member from following the established Department procedures relative to ensuring the proper processing of arrestees.

3. The search should be conducted by an officer with the same gender expression or identity as the transgender or gender non-conforming individual when possible.
4. If an officer is uncertain as to the individual's gender expression or identity, the officer shall ask the individual for their preference as to the gender expression or identity of the searching officer.
5. Appearance-related items, including but not limited to prosthetics, clothes, wigs, or makeup, should not be removed or confiscated from transgender persons by officers unless such items present a safety hazard, impede the administration of medical attention, or are needed for evidentiary reasons.

H. Warrantless Search of Persons:

1. Consent: see section B.
2. Odor of Marijuana: The odor of cannabis coming from within a vehicle continues to provide probable cause to search, even though hemp and medical marijuana may have indistinguishable odors. Members shall refer to [Legal Bulletin 2022-2 Hemp and Odor of Marijuana](#).
3. Members are required to document all searches and the results. If the incident does not result in an incident or supplemental report, members shall document the encounter as a Field Interview Card under heading "SEARCH."
4. Invasive Searches/Reach In: Invasive searches are **NOT** to be conducted in public unless there is reasonable belief that the person in custody may be armed.

If an officer has articulable suspicion that a person in custody is in possession of a weapon, the officer shall seize the weapon immediately and document the occurrence. Strip Searches are prohibited by this policy.

If a person in custody reports having contraband (other than a weapon) in their undergarments, the PC is to be brought to either the GPD sally port or the DOJ sally port. Prior to transport, the Member shall notify a supervisor. Once there, the Member can remove said contraband. The seizure shall be in front of some type of video recording device (ie. In-car camera, body worn camera). The Member shall document the supervisor notification and circumstances of the search and seizure in the report.

GAINESVILLE POLICE DEPARTMENT

I. Prohibited Searches:

1. **Body Cavity Searches:** Department members will NOT conduct body cavity searches. If a member believes the PC is holding contraband in a body cavity, the PC should be brought to the jail for the body scan machine. If it determined the PC does have contraband in a body cavity, the department member shall follow ASO Department of Jail protocol.

Exception: When facts indicate that a PC has placed an object or substance in his/her mouth, a member may check the PC's mouth for contraband to avoid a serious health risk to the PC or loss of evidence. The Member should never place their fingers into the PC's mouth to retrieve contraband.

2. **Strip Searches:** Department members will NOT conduct strip searches.

3. **Invasive Searches/ Reach In" Searches:** Although legal under case law, invasive searches that include reaching into the undergarments of a person are prohibited by department policy, except as defined in section G.2.v They shall be conducted out of public view.

J. Documentation: All searches will be documented in an *Incident/Investigation Report* or *Field Interview Card*. All reports and FIs shall be reviewed by a supervisor for approval to ensure department policy has been followed.

Exceptions: Search incident to arrest may be documented on the Notice to Appear or Criminal Uniformed Traffic Citation in lieu of an *Incident / Investigation Report* in the following instances Per General Order 82.2 Field Reporting and Management:

1. Open containers;
2. Possession of alcohol by persons less than 21 years of age (if the offender is at least 18 years old).
3. Possession of alcohol in a City Park.
4. A UTC serves as the charging document (in accordance with GO 61.1).

By Order of

*Signed Original on File in the
Accreditation Unit*

**Lonnie Scott Sr.
Acting Chief of Police**