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# Search and Seizure of Property and Persons

## 321.1 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 Vancouver Police Department personnel to consider when dealing with search and seizure issues.

## 321.2 POLICY

It is the policy of the Vancouver 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.

## 321.3 SEARCHES

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:

- Valid consent
  - The officer shall provide a juvenile with access to an attorney for consultation before asking a juvenile to provide consent to an evidentiary search of the juvenile or the juvenile's property, dwellings, or vehicles under the juvenile's control.
- Incident to a lawful arrest
- Terry stops
- Legitimate community caretaking interests
- Exigent circumstances
- Plain view

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 seizure and examination of abandoned property and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this Department is expected to act in each situation

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according to current training and his/her familiarity with clearly established rights as determined by case law. VPD members must read and be familiar with Department memoranda and bulletins concerning search and seizure.

### **321.4 SEARCH PROTOCOL**

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

1. Members of this Department will strive to conduct searches with dignity and courtesy.
2. Officers should explain to the person being searched the reason for the search and how the search will be conducted.
3. Searches should be carried out with due regard and respect for private property interests and a reasonable effort should be made to minimize damage.
4. When the person to be searched is of the opposite gender, or makes it known they identify as the opposite gender as the searching officer, if necessary and practical, a reasonable effort should be made to summon an officer of the same gender as the subject identifies to conduct the search. When it is not practicable to summon an officer of the same gender as the subject, or as the subject identifies, the following guidelines should be followed:
  - (a) Another officer or a supervisor should witness the search.
  - (b) The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon or contraband.

### **321.5 SEIZURE OF PERSONS**

When making an arrest, officers will thoroughly search arrested persons and will immediately take possession of all discovered weapons, potentially hazardous items and evidence. An officer making a decision to book an arrested person will transport the person or cause the person to be transported to the jail as soon as reasonable under the circumstances.

The Department precincts have temporary holding/interview rooms which are provided for the comfort, safety and security of police personnel, police facilities and arrested persons held for interrogation, release by citation and other situations. Refer to *Policy 323 Temporary Custody of Juveniles for detaining juveniles*.

1. Persons being held in a temporary holding/interview room will be closely monitored by an officer, provided access to restrooms in a timely manner and will also be provided access to water.
2. Supervisory notification should be made for any person being held for longer than 2 hours.
3. No person should be held longer than 4 hours, unless reasonable under the circumstances with supervisory approval.

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### **321.6 SEIZURE OF PROPERTY**

The seizure of property shall be consistent with law and current established departmental procedures.

### **321.7 DOCUMENTATION**

Officers are responsible to document any search when property is seized and/or an arrest is made, and to ensure any required reports are sufficient including, at minimum, documentation of the following as applicable:

- (a) Reason for the search.
- (b) In the event of forcible entry, document efforts used to minimize the intrusiveness of the search and steps taken to secure property as applicable.
- (c) Description of any injuries or damage that occurred.
- (d) A description of any property seized, who possessed it (if known) and the location it was seized. This may be accomplished by the entry of the item into the RMS evidence system.
- (e) Officers who transport a person who has been detained / arrested must document the custodial transport with a report or supplemental report. The report should include where the person and his / her effects were transported from and where the transport concluded.

Supervisors shall review reports as a part of the report approval process in the Department RMS subject to VPD Policy 343 Report Preparation.