



# GENERAL ORDER OPS-08 SEARCH AND SEIZURE

FEBRUARY 18, 2022

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This General Order contains the following numbered sections:

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## I. POLICY

The Howard County Department of Police (HCPD) shall conduct all searches of persons and property in good faith compliance with existing law and shall document each search in a written report. Seizures of property and items from individuals shall be done only to collect and preserve evidence and remove contraband.<sup>1</sup>

## II. DEFINITIONS

- A. Affidavit: A statement under oath that details information about the event and the officer's training and experience that is intended to establish probable cause to believe the item(s) sought are in the possession of an individual or are being held at a specific location.
- B. Application: The official request to the court for a search and seizure warrant that is attached to the affidavit.
- C. Body Cavity: The rectal or vaginal cavity of an individual.
- D. Body Cavity Search: This type of search involves a physical intrusion into an individual's body cavities to determine the presence of a weapon or a controlled dangerous substance concealed in the body cavity.<sup>2</sup>
- E. Evanescent Evidence: Evidence that will disappear or fade in a short period of time if not collected and preserved immediately.
- F. Probable Cause: Probable cause exists when the facts and circumstances within the knowledge of the officer based on education, experience, training, and information known to an officer at the time of an incident, or the officer has reasonable, trustworthy information, that would warrant a reasonable and prudent officer to believe that a suspect has committed or is committing an offense, or that evidence relating to a crime can be found in a particular location.

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<sup>1</sup> CALEA 1.2.4

<sup>2</sup> CALEA 1.2.8

- G. Search Warrant: An order issued by the court authorizing and directing an officer to search a specified person, premises, vehicle, dwelling, etc. for items related to the commission of a crime.
  - 1. Knock and announce: Officers shall allow a minimum of 20 seconds for the occupants of a residence to respond and open the door before attempting to enter the residence, absent exigent circumstances.
  - 2. No-Knock: The search warrant authorizes the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose.
- H. Strip Search: A search of an arrestee requiring the removal or rearrangement of some or all clothing to permit the visual inspection of the genitals, buttocks, anus, breasts, or undergarments of the individual.<sup>3</sup>

**III. SEARCH WARRANT ISSUED**

- A. Officers conducting a search and seizure of a place where any party has a reasonable expectation of privacy governed by the Fourth Amendment, such as of a person or in a home, must have a search and seizure warrant or meet the criteria for one of the exceptions to the warrant requirement.
- B. This section does not prohibit nor necessarily require a member from obtaining a search warrant if an exception to the warrant requirement exists. Searches and seizures conducted pursuant to a warrant are preferable.

**IV. SEARCH OF ARRESTEE**

- A. Any person who has been arrested pursuant to an arrest warrant, a warrantless arrest under the Maryland Criminal Procedure Article, or a warrantless arrest made under the provisions of the Transportation Article shall be searched incident to arrest under the following parameters:
  - 1. Once a suspect is placed under arrest they are to be appropriately handcuffed and searched incident to arrest.
  - 2. Officers shall conduct a full search of the person regardless of the reason for arrest or whether a person is arrested with or without a warrant. However, strip searches and body cavity searches are not permitted except under the circumstances outlined in Section V of this order.
  - 3. Arrestees shall be searched by officers of the same sex when practical.
    - a. If an on-duty officer of the same sex is not available to conduct the search, the use of an on-duty officer from another agency may be considered. If an on-duty officer of another agency is not available, an off-duty HCPD officer may be called out with supervisory approval.
    - b. If no officer of the same sex is reasonably available, then the arresting officer may conduct the search using the back or blade of the hand to search the chest, buttocks, and genital area.
  - 4. When arresting a transgender person and the officer knows the assigned birth sex of the arrestee, the arrestee will be searched by an officer of that same assigned birth sex.
    - a. If the arrestee's assigned birth sex is in question, the arrestee will be searched by an officer of the gender the arrestee is presenting.

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<sup>3</sup> CALEA 1.2.8

- b. Supervisors shall be consulted if the arrestee objects to being searched by an officer of the same assigned birth sex.
- c. Officers shall ensure that transgender arrestees are transported separately, and Central Booking is alerted to the arrestee's status.
- 5. Officers shall search the person arrested and the immediate area within the person's lunge, reach, or grasp. Limitations apply to searches of vehicles incident to arrest as stipulated under Section VI of this General Order.
- 6. The search must be contemporaneous, i.e. within the same period of time, with the arrest.
- B. At the time of the search incident to arrest, the officer searching the suspect is responsible for seizing:
  - 1. Property unlawfully possessed;
  - 2. Property carried lawfully but that is dangerous to personal safety or could aid in escape; and
  - 3. Property that may be used as evidence.
  - 4. Other property that may be held for safekeeping or seized shall be inventoried and placed in the HCPD property room consistent with General Order ADM-49, [Property and Evidence Control](#).
- C. Officers shall search prisoners prior to transport to or from a detention facility. Officers shall search an arrestee a second time upon arrival at the police or detention facility. This search is referred to as a search incident to detention.
  - 1. The officer searching the suspect is responsible for seizing all property. Once all the property has been collected it will be documented on the Personal Property Inventory Record Form.
  - 2. Any property that may be released to the arrestee will be done so at the time of his release.
- D. The following items seized during search incident to detention will not be released to the suspect and will be placed in the HCPD Property room:
  - 1. Property unlawfully possessed;
  - 2. Property carried lawfully but that is dangerous to personal safety or could aid in escape; and
  - 3. Property that is evidence of a crime.
- E. Officers shall search any prisoner they receive from another officer.

**V. STRIP AND BODY CAVITY SEARCHES**

- A. Strip Search
  - 1. Arrested individuals shall not be subject to a strip search unless the arresting officer has reasonable articulable suspicion to believe that the individual is concealing contraband or weapons.

2. Reasonable articulable suspicion may be based upon but is not limited to the following:<sup>4</sup>
  - a. The nature of the offense charged;
  - b. The arrestee's appearance and demeanor;
  - c. The circumstances surrounding the arrest;
  - d. The arrestee's criminal record, particularly past crimes of violence and narcotics offenses;
  - e. The discovery of evidence of a major offense in plain view or during a search incident to arrest;
  - f. Detection of weapons or contraband beneath the suspect's clothing during a field search incident to arrest; and
  - g. The actions of the arrestee during the time the officer had contact or control over him.
  
3. Strip searches require supervisory approval. Once authorized by a supervisor, strip searches may be conducted in the following manner:<sup>5</sup>
  - a. A strip search will never be conducted in place of or before an exterior body search has been conducted to help reveal a weapon or suspected contraband.
  - b. Strip searches will be conducted by a minimum of two (2) officers of the same sex as the individual being searched unless exigent circumstances dictate otherwise.<sup>6</sup>
  - c. If there is only one officer of the same sex available for the search, that officer shall conduct the search. The officer of the opposite sex shall provide security and should not participate in nor view the strip search but shall remain within hearing distance.
  - d. Strip searches of transgender persons shall be conducted by officers of the same assigned birth sex as the person being searched. A supervisor shall be consulted if the arrestee objects to being strip searched by an officer of the same assigned birth sex. If the arrestee's assigned birth sex is in question, the arrestee will be searched by an officer of the gender the arrestee is presenting.<sup>7</sup>
  - e. The strip search shall be conducted in a location where the search may not be observed by individuals not participating in the search.<sup>8</sup>
  - f. Officers involved in the strip search shall refrain from needlessly touching the arrestee's body except for safety and control purposes.
  - g. Officers will document the following, at a minimum, on an incident report:<sup>9</sup>
    - i. Date and location of the search;
    - ii. Reason for the search;

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<sup>4</sup> CALEA 1.2.8a

<sup>5</sup> CALEA 1.2.8a

<sup>6</sup> CALEA 1.2.8b

<sup>7</sup> CALEA 1.2.8b

<sup>8</sup> CALEA 1.2.8b

<sup>9</sup> CALEA 1.2.8d

- iii. Any contraband or weapons recovered;
  - iv. Identity of the officers conducting the search;
  - v. Detailed description of the nature and the extent of the search; and
  - vi. Supervisor's name that granted permission for the search.
4. This same process shall be followed in the event the person being strip searched is a juvenile. The supervisor authorizing the strip search must be present for the strip search unless the search is required for the immediate safety of the juvenile or officer, i.e. to remove a weapon.<sup>10</sup>

**B. Body Cavity Searches**

1. A body cavity search is highly invasive. Absent exigent circumstances, body cavity searches may only be conducted on authority of a search warrant.<sup>11</sup>
  - a. An officer shall consult with and have approval from his immediate supervisor to determine whether probable cause exists to seek a search warrant for a body cavity search.
  - b. Body cavity searches of a juvenile shall be conducted in the same manner as detailed in this policy.<sup>12</sup>
2. Body cavity searches will be conducted at a medical facility, except under exigent circumstances, and only by an appropriate medical professional.<sup>13</sup>
3. The officer initiating the search shall file an incident report documenting the reasons for the search and what, if any, contraband or weapon was recovered; the date and place the search took place; the identity of the officers and medical persons present during the search; and a detailed description of the nature and the extent of the search.<sup>14</sup>

**VI. SEARCHES OF AUTOMOBILES**

**A. Warrantless searches of vehicles are permitted under the following circumstances:<sup>15</sup>**

1. *Carroll* doctrine search: A search may be conducted if the officer has probable cause to believe the vehicle or compartment contains evidence of a crime or contraband, and the vehicle is readily mobile. The search is limited only to compartments of or within the vehicle where the evidence can reasonably be located.
2. Consent search: A search of the vehicle may be conducted if the actual or apparent owner/operator or person in control of the vehicle voluntarily consents to the search. The scope of the search is limited to the areas for which consent is given, and consent can be revoked at any time.
3. Protective sweep or frisk for weapons for officer safety: A sweep or frisk of the passenger compartment of a vehicle or a location within the lunge, reach, or grasp of any occupant, may be conducted if the officer has reasonable suspicion that the occupant may gain immediate control of a weapon.

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<sup>10</sup> CALEA 1.2.8c

<sup>11</sup> CALEA 1.2.8a

<sup>12</sup> CALEA 1.2.8c

<sup>13</sup> CALEA 1.2.8b

<sup>14</sup> CALEA 1.2.8d

<sup>15</sup> CALEA 1.2.4

4. Search incident to arrest: The searching of the passenger compartment of a vehicle within the lunge, reach, or grasp of an occupant after an occupant is arrested is permitted when the officer has reason to believe the vehicle contains evidence of the crime for which they were arrested.
5. Inventory search: A search that shall be conducted to secure and protect the property of the owner when a vehicle has been lawfully impounded. The search must be limited to those areas of the vehicle where valuables or other property of the owner may reasonably be located.
6. Emergency circumstances: A search that may be conducted when emergency circumstances exist and the search is necessary to preserve and protect life and prevent serious injury. The scope of the search is limited to only what is necessary to properly respond to the emergency.
7. Where the initial search discloses probable cause to believe that other portions of the vehicle may contain fruits, instrumentalities, or evidence of a crime or contraband, any additional portions of the vehicle may be searched that could reasonably contain the items being sought.

B. Containers

1. An officer who has probable cause to conduct a *Carroll* search of a vehicle may also conduct a warrantless search of any container, locked or unlocked, within the vehicle if the officer has probable cause to believe it contains evidence of a crime or contraband.
2. An officer may conduct a warrantless search of any container, locked or unlocked, that the officer has reasonable suspicion to believe contains a weapon and is immediately accessible to an occupant.

C. If the search of the vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, officers shall take reasonable steps to secure the vehicle and property.

D. If a vehicle is determined to be abandoned as per General Order OPS-28, [Traffic Services and Towing Procedures](#), examination of the contents of the vehicle shall be conducted consistent with this policy.

**VII. ELECTRONIC DEVICES**

A. The portability and privacy associated to electronic devices makes the seizure and searching of them a complex legal issue. Officers are reminded citizens have the right to record any activity, including police activity, that occurs in public spaces. Refer to Memo 2010-01, [Citizens Recording Officers Actions](#), for additional guidance.

B. If the person in possession of the electronic device is under arrest and the officer has probable cause to believe the device contains evidence of a crime:

1. The device shall be seized pursuant to search incident to arrest;
2. The officer shall secure the device according to the guidelines in this General Order and the HCPD Evidence Manual; and
3. The officer shall apply for a search warrant for the search/analysis of the device.

C. The seizure of electronic devices in non-custodial situations is preferably done via a search warrant if the device is not relinquished voluntarily as outlined in section D., below.

- D. If an officer has probable cause to believe that an individual other than a person under arrest possesses a recording or image that depicts criminal activity other than child pornography or the sexual exploitation, sexual assault, or sex trafficking of a child, the officer should first request that the individual voluntarily share the video or images by emailing the file to the officer, downloading a copy of the file and turning it over to the officer, or voluntarily turning the device over to the officer so that the file can be downloaded and saved by a qualified technician.
1. If the individual agrees to email the video and/or image to the officer, the officer should encourage the witness to send the email in the officer's presence and should confirm receipt of the email and video and/or image attachment using his assigned MDC.
  2. In the event a device is voluntarily turned over to the officer, the necessary passwords must be obtained for accessing the device and programs and/or applications on the device, and the officer shall be responsible for arranging the expedient processing of the device and its return to the owner. This shall include obtaining the owner's consent via HCPD Form 2105, Consent to Search Electronic Data.
- E. If the seriousness of the crime and the existence of probable cause justify seizing the device and the person not under arrest has refused to relinquish it upon request, the officer may detain the person and/or secure the phone on scene until such time as a search warrant can be obtained for the formal seizure of the device. If the individual resists the temporary securing of the phone the person may be arrested for hindering.
- F. The warrantless involuntary seizure of an electronic device from an individual who is not under arrest shall only be conducted if the officer has probable cause to believe that the individual possesses an electronic recording device that contains images or an audio and/or video recording of a crime where the perceived evidence would be directly related to the investigation or prosecution of the criminal offense and the officer is able to articulate the basis supporting an objectively reasonable belief that the evidence will be destroyed, or that the device contains images or recordings of child pornography or the sexual exploitation, sexual assault, or sex trafficking of a child.
1. Lacking consent or exigent circumstances that would be an exception to the warrant requirement for immediate access to any content on the device, the officer shall seize the device and obtain a search warrant to access information stored on the device.
  2. In the event a device is involuntarily seized by the officer, the officer will make every effort to obtain the necessary passwords and passcodes for accessing the device and programs and/or applications on the device, and the officer shall be responsible for arranging the expedient processing of the device and the return of the device to the owner.
- G. Members obtaining data from a witness' electronic device should limit the search for data to applications that may have information relevant to the crime or incident being investigated.
- H. To preserve all data, members shall:
1. Keep the device in its current power mode, i.e. on or off. If it is on, place it in "airplane mode" if possible.
  2. Place the device in a moisture seal/RF blocking bag, fold the bag over itself several times for maximum signal blocking protection, and close it with tape.
  3. Submit the device to Property & Evidence for proper processing and storage. Contact the Digital Forensics Unit with any questions.
  4. Notify the Digital Forensics Unit prior to the end of the shift that a device containing evidence has been submitted.

5. In the event an iPhone has been involuntarily seized and a passcode cannot be obtained, all efforts should be made to immediately place the device into airplane mode or into a signal blocking container or bag and attached to a power source. Due to the volatility of data on an iPhone, every effort should be made to have the device examined before it is turned off.

**VIII. FRESH (HOT) PURSUIT**

An officer who is in hot pursuit of a suspect may be authorized to intrude into a constitutionally protected area to search for the suspect if:

- A. The officer has probable cause to believe that the suspect has recently committed a felony; and
- B. The officer has probable cause to believe the suspect may be located within the area to be searched.

**IX. CONSENT SEARCHES<sup>16</sup>**

- A. Persons with joint access and control of property that an officer wishes to search can authorize a warrantless search and seizure of the property. A joint owner who is present can veto the consent of areas that are of common use and enjoyment to both parties, such as the vetoing party's private bedroom.
- B. Officers may search under the consent search exception if the consent is voluntary under the totality of the circumstances.
- C. Officers should utilize HCPD Form 2118, Voluntary Consent Search, when possible.
- D. The scope of a consent search can be limited to a specific area or items by the party giving consent and can be withdrawn at any time.

**X. TERRY STOPS AND FRISKS**

- A. Investigative Detention (Terry Stops)
  1. Officers may stop individuals to conduct an investigative detention only when there is reasonable and articulable suspicion to believe that a crime has been, is being, or is about to be committed.
  2. Reasonable suspicion must be more than a hunch or feeling but need not meet the test for probable cause sufficient to make an arrest.
  3. In justifying the investigative detention, the officer must be able to articulate specific factors that, when taken together with rational inferences, reasonably warrant the stop. Such factors include but are not limited to the following:
    - a. The appearance or demeanor of the suspect suggests that he is part of a criminal enterprise or is engaged in or has recently been engaged in a criminal act.
    - b. The actions of the suspect indicate he has been, may be, or will be engaged in criminal activity.
    - c. The suspect's presence in a neighborhood or location is suspicious.
    - d. The suspect is carrying an object that appears to be recently stolen.

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<sup>16</sup> CALEA 1.2.4

- e. The suspect's clothing bulges in a manner that suggests he may be carrying a weapon.
- f. The suspect is located in close proximity to an alleged crime.
- g. The officer possesses a report that the person is engaged in criminal activity or is carrying a weapon.
- h. The suspect has a known criminal history.
- i. The suspect makes furtive movements.
- j. The suspect flees when seeing police.

B. The following guidelines shall be followed when making an investigative detention:

- 1. The officer shall clearly identify himself as a law enforcement officer when approaching the suspect by announcing his identity and displaying HCPD identification if not in uniform.
- 2. Officers shall be courteous during the contact but must maintain caution and vigilance for furtive movements to retrieve weapons, conceal or discard contraband, or other suspicious actions.
- 3. Officers should consider whether the circumstances warrant a back-up officer for assistance before approaching an individual. Officers conducting investigative detentions are strongly encouraged to use the contact/cover system with the back-up officer.
- 4. Officers shall confine their questions to those concerning the suspect's identity, place of residence, and inquiries necessary to resolve the officer's suspicions. In no instance shall an officer detain a suspect longer than is reasonably necessary to make these limited inquiries.
- 5. Officers are not required to give suspects Miranda warnings to conduct investigative detentions. However, there may be times an officer wants to question an individual who has been detained in an attempt to illicit incriminating responses. In those instances, Miranda warnings will be provided to the subject prior to questioning.
- 6. Suspects are neither required to nor can they be compelled to answer any questions posed during investigative detention. Failure to respond to an officer's inquiries is not in and of itself grounds to make an arrest, although it may provide a basis for additional observation and investigation.

C. Pat Downs/Frisk for Weapons<sup>17</sup>

- 1. An officer has the right to perform a pat down for weapons of the outer garments of a suspect if the suspect has been legitimately stopped and the officer has reasonable articulable suspicion that the individual is presently armed and dangerous.
- 2. Not every investigative detention possesses sufficient justification for conducting a frisk for weapons. The officer must be able to articulate why he reasonably believes the suspect is armed and dangerous.
- 3. The officer must be able to point to specific factors that, when taken together with rational inferences, reasonably warrant the frisk. Such factors include but are not limited to the following:

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<sup>17</sup> CALEA 1.2.4

- a. Visual observations of a bulge that suggests that the suspect might be carrying a weapon.
  - b. Furtive movements.
  - c. The type of crime suspected, involving a crime of violence or possession of a weapon.
  - d. Proximity of time and place to a crime.
  - e. Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
  - f. The appearance and demeanor of the suspect.
  - g. The hour of day and location or neighborhood where the stop takes place.
4. Pat down searches should be conducted in the following manner:
- a. Whenever possible, a pat down should be conducted by at least two officers using the contact/cover method.
  - b. Officers are only permitted to externally pat down the outer clothing of the suspect. Officers may not place their hands in pockets unless they feel an object that could reasonably be a weapon.
  - c. If the suspect is carrying an object such as a handbag, suitcase, briefcase, or other item that may conceal a weapon, the officer should not open the item but may pat down and examine the bag from the outside before placing it out of the suspect's reach. This does not preclude the officer from:
    - i. Asking for consent to search the item; or
    - ii. If the officer feels something from the external pat down of the object that he can articulate through his training, knowledge, and experience is a weapon that can cause harm, the officer has probable cause to search the object without consent.
- D. Plain Feel Doctrine: When an officer is conducting a pat down and detects an object on the suspect that he immediately recognizes and can articulate as contraband, an arrest is not required to be made prior to recovering the contraband, and the object may be seized even if it is not a weapon.
- E. If after conducting an investigative detention there is no basis for making an arrest, the officer shall record the facts of the interview consistent with General Order OPS-15, [Investigative Protocols](#). If a pat down search was conducted, a report will be made consistent with General Order ADM-11, [Departmental Reporting Procedures](#).

**XI. PLAIN VIEW SEIZURES<sup>18</sup>**

- A. Under the plain view doctrine, if an officer is legally present at a location then any contraband and/or evidence that is clearly visible to that officer may be seized.
- B. This rule is subject to the following requirements:

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<sup>18</sup> CALEA 1.2.4

1. The officer must lawfully be in the place or position from which the evidence was first seen.
2. The officer must have probable cause to believe that the items observed are contraband or evidence of a crime.
3. The incriminating character of the evidence must be immediately apparent. If further investigation is necessary before the incriminating nature of the object becomes apparent, the plain view doctrine does not apply, and a warrant must be obtained before the seizure of any property can occur.

**XII. EAVESDROPPING, WIRETAPPING, AND ELECTRONIC SURVEILLANCE<sup>19</sup>**

- A. Officers may knowingly overhear conversations when lawfully present on a premises and where no eavesdropping equipment is used.
- B. Officers may converse with others who do not know that they are police officers and otherwise recall, make written notes, and repeat conversations as allowed by the law and HCPD policy.
- C. An officer may listen to but not record a telephone conversation between two parties where one of the parties consents to the officer listening.
- D. One-party consent to record the conversation may be given in cases as authorized under Section 10-406 of the Maryland Courts and Judicial Proceedings Article.
- E. All officers are required to coordinate wiretaps through the State's Attorney's Office.
- F. The Chief of Police or supervising law enforcement officer as defined by Section 10-413 of the Courts and Judicial Proceedings Article may order any telephone company providing service involved in a hostage or barricaded subject to interrupt, reroute, divert, or otherwise control telephone communications service.
  1. If the telephone company declines this order because of threat of physical injury to its employees or is unable to respond within a reasonable time, the supervising law enforcement officer may order a hostage and barricade communications specialist, such as the HCPD Critical Incident Negotiations Team (CINT) to interrupt the telephone communications.
  2. See General Order OPS-49, [Critical Incident Negotiations Team](#), for additional information.

**XIII. SAFETY AND WELFARE EXCEPTION SEARCHES**

- A. Officers may make entry into a dwelling to check on the welfare of the people inside. This search is limited to areas where a person could be, i.e. officers cannot open drawers or cabinets, etc.
- B. Officers entering a dwelling under this exception must have an objectively reasonable basis for believing that they need to:
  1. Render emergency assistance to an occupant; or
  2. Protect an occupant from imminent injury.
- C. These searches will only be done with supervisory approval.

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<sup>19</sup> CALEA 83.2.2b

**XIV. EXECUTING SEARCH AND SEIZURE WARRANTS ON A PREMISES<sup>20</sup>**

- A. The primary responsibility for making entry when serving search and seizure warrants on occupied structures shall rest with the Tactical Section.
- B. The primary objective of all search warrant service is the safety of all involved, to include officers and citizens, and the preservation of evidence.
- C. Documents
  - 1. All affidavits for search and seizure warrants shall be reviewed by a supervisor and a commissioned officer for sufficient probable cause prior to being presented to a judge. The names and ID numbers of each supervisor will be documented in the police report of the incident.
  - 2. Any search or seizure executed under authority of a search warrant shall be made as soon as operationally possible, but no later than ten (10) days from the date of issuance. A search warrant not executed within ten (10) days must be returned to the issuing judge as promptly as possible.
  - 3. An executed search warrant, to include the Return, shall be delivered by the officer to the issuing judge or, in his absence, to another judge of the same circuit in which the search warrant was issued as promptly as possible but no later than ten (10) days after the execution of the warrant.
  - 4. A written report shall be completed by the executing officer and any other officer involved in direct police action during the search, i.e. seizing evidence, taking or witnessing statements, searching and arresting suspects, etc.
- D. In cases involving CDS, supervisors shall contact the Vice and Narcotics Division prior to the service of the warrant to ensure that no conflicts or disruptions occur to on-going cases.
- E. Prior to all search warrant services on occupied structures, the investigating officer shall complete a Search and Seizure Warrant Risk Assessment Form (HCPD Form 4010). The completed Risk Assessment Form and a copy of the search and seizure warrant will be forwarded to the commander of the Special Operations Bureau (SOB) or his designee.
  - 1. After a review of the search and seizure warrant and HCPD Form 4010 and consultation with the investigating unit or officer, the Commander of the SOB or his designee shall authorize use of the Tactical Section for the warrant service or return the warrant to the investigating unit for service.
  - 2. If the Commander of the SOB or his designee determines that the Tactical Section will not be utilized to serve the warrant, written justification will be provided on the Search Warrant Risk Assessment form and notification will be made to the investigating unit/officer of the decision.
  - 3. The reviewing member of the SOB will submit a signed copy of the Search Warrant Risk Assessment Form to the Records Section for inclusion in the case file.
- F. Except for no-knock warrants as detailed in this General Order, the time for the execution of a search and seizure warrant shall be decided by the supervisor of the unit serving the warrant after consultation with the supervisor of the section or officer obtaining the warrant.
  - 1. Consideration shall be given to officer safety, safety of the occupants, destruction or loss of evidence, and the seriousness of the crime.

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<sup>20</sup> CALEA 74.3.1

2. When deciding the best time to execute a search warrant, the following factors will be considered to maximize safety and ensure the success of the operation:
  - a. Historical experience with the success of search warrant executions based on the nature of alleged activities and patterns of behavior of those involved.
  - b. Information, pre-operation surveillance, and undercover officer access.
- G. In conjunction with the service of a warrant, the supervisor of the section serving the warrant will ensure that notifications are made as soon as practical to the Watch Commander, area supervisor, and the Communications supervisor.
- H. A drive-by of the target premises should be conducted by the operation supervisor or his designee prior to the briefing with the operation personnel.
- I. In investigations of a sensitive nature such as child abuse, sex offenses, etc. where tactical entry of any kind could be detrimental to the case, other non-tactical entry methods may be considered and utilized.
  1. HCPD Form 4010 shall be completed and forwarded to the Commander of the SOB or his designee for review and discussion regarding a viable entry solution.
  2. If a viable solution for entry is not agreed upon, final decision regarding the method of entry shall rest with the Deputy Chief of Special Operations.
- J. Members of the media or ride-a-longs may not accompany officers during the execution of search and seizure warrants. Civilian members of the HCPD may be present only if their services may be needed during or after the service of the search warrant, i.e. crime scene technicians.
- K. Allied Agency Assistance
  1. Requests for assistance to execute a search warrant in Howard County by an allied agency must be reviewed by a Watch Commander. The Watch Commander shall:
    - a. Confirm the search warrant has been properly signed by a judge.
    - b. Complete HCPD Form 4010 and forward it to the Commander of the SOB or his designee for review and for determination on whether the Tactical Section will be utilized.
    - c. Arrange for appropriate resources to provide assistance and ensure a uniformed presence.
    - d. Ensure the service of the search warrant is completed as soon as operationally possible.
    - e. Alert a V&N supervisor for any drug-related warrants.
    - f. Alert a CIB supervisor for all other warrants being served.
  2. An Incident Report will be completed by the responding patrol officer or detective. The report shall include the following information:
    - a. Name of the requesting agency;
    - b. On-scene requesting agency representative;
    - c. Nature of the offense/warrant; and

- d. Identifying information for all subjects present at the target location.

L. Type of Entry

1. Knock and Announce: This type of entry should be utilized unless conditions for a no-knock entry exist. Officers shall allow a minimum of 20 seconds for the occupants of a residence to respond and open the door before attempting to enter the residence, absent exigent circumstances.
2. No-Knock: An application for a search warrant shall contain a request that the search warrant authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose when there is reasonable suspicion to believe that without the authorization the life or safety of the executing officer or another person may be endangered.<sup>21</sup>
  - a. The application will be reviewed by a police supervisor, commissioned officer, and a member of the State's Attorney's Office prior to being presented to a judge.
  - b. Specific and articulated facts should be considered in obtaining a no-knock warrant.
    - i. A description of the evidence in support of the application.
    - ii. An explanation of the investigative activities that have been undertaken and the information that has been gathered to support the request for a no-knock search warrant.
    - iii. An explanation of why the suspects would be unable to be detained or the premises searched using other, less invasive methods.
    - iv. The criminal history and propensity for violence of the suspects and occupants in the location to be searched, and a list of known occupants of the premises by age and gender, as well as an indication as to whether individuals with cognitive or physical disabilities.
    - v. The knowledge of weapons on the premises, particularly guns.
    - vi. Knowledge of barricaded entranceways.
    - vii. Known associations with armed and dangerous criminals.
    - viii. Any pets that reside at the premises, if known.
  - c. All no-knock warrants shall be served by the Tactical Section.
    - i. If not specified in the warrant, a no-knock entry can be authorized by the Tactical Section Supervisor based on the totality of the circumstances that exist at the time of the execution of the search warrant.
    - ii. All police officers executing no-knock search warrants must have successfully completed the Tactical Section training in breach and call-out.

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<sup>21</sup> CALEA 74.3.1

- d. All no-knock search warrant applications shall contain a statement as to whether the search warrant can effectively be executed during daylight hours and, if not, what facts or circumstances preclude effective execution in daylight hours. No-knock warrants shall be served between 0800 and 1900, absent exigent circumstances, or during a time authorized by the court.
  3. The use of flashbang, stun, distraction, and similar devices is prohibited absent exigent circumstances.
- M. Method of Entry
1. Forced: A forced entry shall only be made if:
    - a. A search warrant is approved as a no-knock entry, either by the authorizing judge or by the decision of the Tactical Section Supervisor due to the exigencies that exist at the time based on the totality of the circumstances; or
    - b. After officers have knocked and announced their presence and entry is denied by the occupant; or
    - c. After officers have knocked and announced their presence and a minimum of 20 seconds has elapsed without a response.
  2. Non-Forced: These entries will be made by knocking on the door, identifying the search team as police officers, and being allowed entry by the occupant of the house or premises.

**XV. SERVICE OF SEARCH AND SEIZURE WARRANTS<sup>22</sup>**

- A. All search warrants shall be entered into the Search Warrant Database by the officer who obtained the search warrant prior to the end of the following workday that the warrant was served.
- B. A supervisor shall be present and shall coordinate the warrant service. It is the responsibility of the officer who obtained the search warrant and seeks to serve it to ensure the presence of a supervisor.
- C. While executing a search warrant, officers shall be clearly recognizable and identifiable.
  1. All officers shall wear their assigned uniform of the day.
  2. The officer's badge and HCPD-issued identification shall be visible on the outermost garment.
  3. Officers of the operation party shall wear their protective vest and visibly display items that readily identify them as police officers, i.e. badges and/or jackets with the word "POLICE" on them.
  4. Officers issued body-worn cameras shall wear and operate them in accordance with all applicable policies.
- D. A search warrant will not be executed while undercover police officers are inside the location unless there is an investigative necessity and a commissioned officer has given the authority.
- E. If there is a reason to believe that an undercover officer inside the location is in immediate danger, then entry will be authorized based on exigent circumstances.

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<sup>22</sup> CALEA 74.3.1

- F. The warrant, excluding the application, shall be read to the property representative unless doing so would present a danger to the officers, the suspect, or the public.
- G. The supervisor present at the service of the warrant shall ensure that photographs are taken of all areas to be searched before and after the execution of the warrant. Photographs shall become part of the case file managed by the Records Section or other authorized locations that may maintain records, such as the Forensics Services Section, Vice and Narcotics, and Animal Control.
- H. Occupants found in a residence may be detained:
  - 1. While the premises is being secured and the identity of the occupants is verified. After it has been determined there is no probable cause to make an arrest, occupants may be released.
  - 2. If the search warrant is for evidence only it could be useful for all occupants to remain on the scene. If an occupant requests to leave and there is no probable cause to effect an arrest, the officer may permit the release of the occupant.
  - 3. The securing of occupants at the initial stage of executing a warrant is vital to the safety of officers and suspects. At the same time, police officers must remain sensitive to the reasonableness of the treatment afforded persons found inside. General factors to consider before handcuffing include:
    - a. Background information, officer and suspect safety, and the potential for the destruction of evidence.
    - b. The number of personnel available to provide security to those detained.
  - 4. All occupants will be identified and a wanted check completed on each individual. The case investigator shall ensure that the names of all occupants found in the residence are included in his report.
  - 5. If an officer is able to articulate a reasonable belief that a person in the residence has a weapon, the officer may conduct a pat-down frisk of the person's outer clothing for officer safety.
  - 6. A search of persons found on the premises may be conducted under the following circumstances:
    - a. Incident to arrest;
    - b. The search warrant authorizes the search of the person; or
    - c. Consent search.
- I. Seizing Property and/or Evidence
  - 1. The operation supervisor shall assign one officer to act as the seizing officer. This officer will be responsible for the actual seizing of all evidence.
    - a. As a practical matter, the seizing officer will often assign other members to assist in locating evidence.
    - b. Coordination of the search will be the direct responsibility of the seizing officer.
    - c. Under no circumstances will anyone enter the search area without the approval of the seizing officer.

- d. A written record will be kept of each person entering the search area.
- 2. An officer taking property under a search and seizure warrant shall inventory the property seized on a Return. A copy of the Return, search warrant, application, and supporting affidavit shall be left with the person from whom the property was taken at the time of service.
  - a. If no one is present, these forms will be left in a conspicuous place at the premises for the owners.
  - b. This does not apply in cases of sealed affidavits in which only a copy of the search warrant and Return will be left.
- 3. If articles are disturbed during the search, the supervisor will ensure they are returned to their original position, if possible under the circumstances.
- 4. Property is not to be unnecessarily damaged or soiled. When property is damaged or seriously soiled, a written report of the circumstances will be forwarded by the supervisor at the scene, through channels, to the appropriate Deputy Chief of Police and Risk Management, consistent with HCPD General Order ADM-20, [Damage to Citizen Property](#).
- 5. Any electronic data that might be seized during the execution of a Search Warrant will be collected and secured consistent with training and all applicable General Orders.
- J. It is the responsibility of the main case investigator to notify the owners or managers of an apartment complex to discuss possible eviction proceedings after the successful execution of a drug-related search and seizure warrant.

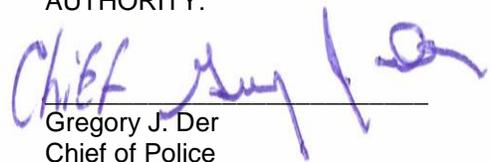
**XVI. ANIMAL CONTROL**

- A. An Animal Control Officer may apply for and execute a search warrant consistent with the same parameters set forth in this policy.
- B. All search warrants will be reviewed by a commissioned officer before their execution to assess the need for further resources.
- C. The Animal Control Officer who has the approved search warrant shall contact Communications to have a patrol officer and supervisor respond and assist with the execution of the warrant.
- D. All animals seized during the execution of the warrant shall be housed at the Howard County Animal Control facility or another authorized location.
- E. Animal Control may respond, if requested, to the scene of any search warrant being executed where there may be animals present for the safety of personnel executing the search warrant and for the welfare of the animals.

**XVII. CANCELLATION**

This General Order cancels General Order OPS-08, [Search and Seizure](#), dated June 28, 2019.

AUTHORITY:

  
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Gregory J. Der  
Chief of Police