

*Please note: This is a working draft of Directive 650.00. The PPB has not implemented any portion of this draft. Submit your comments using the “Provide Feedback Here” link located at the end of the directive.

A redline copy of the updated directive is included in this attachment.

650.00, Search, Seizures, and Inventories

2nd Universal Review Period: 11/16/20 – 12/16/20

Refer:

- ORS 131.005, General definitions
- ORS 131.605, Definitions for ORS 131.605 to 131.625
- ORS 131.615, Stopping of persons
- ORS 133.033, Peace officer community caretaking functions
- ORS 133.525, Definitions for ORS 133.525 to 133.703
- ORS 133.535, Permissible objects of search and seizure
- ORS 133.537, Protection of things seized
- ORS 153.039, Stop and detention for violation
- ORS 810.410, Arrest and citation
- City Code Chapter 14C.10, Police Duties to Inventory Property
- DIR 631.60, Premises Entry
- DIR 640.02, Photography and Digital Imaging
- DIR 652.00, Search Warrants
- DIR 660.10, Property and Evidence Procedures
- DIR 850.21, Peace Officer Custody (Civil)
- DIR 870.20, Custody and Transportation of Subjects

Definitions:

- Body cavity search: Any visual or physical inspection of a person’s genital or anal region with or without physical contact or intrusion into a body cavity.
- Frisk: An external patting of a person’s outer clothing.
- Inventory: An administrative, non-discretionary search made for the purpose of protecting a person’s property from loss or theft and preventing government liability for loss or theft.
- Probable cause: Probable cause means that there is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it.
- Reasonable suspicion: An objective test measured at the time and place the member acts and based on the totality of the circumstances, which requires a member to point to specific, articulable facts giving rise to a reasonable inference that a subject has engaged or is engaging in criminal activity.
- Search: When an officer intrudes upon a person’s protected privacy interests.
- Seizure of a person: When an officer significantly interferes with a person’s liberty of movement, including but not limited to pedestrian stops, traffic stops, and arrests.

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- Seizure of property: When an officer significantly interferes with a person’s possession or ownership interests in their property.
- Strip Search: A search of a person that includes the removal of clothing to permit visual inspection of the person’s groin/genital area, buttocks, breasts, or undergarments covering those areas.

Policy:

1. Both federal and state Constitutions protect every person against unreasonable governmental searches and seizures. This policy provides guidance for members to act in accordance with the law and respect the constitutional rights of individuals during searches and seizures.
2. Case law regarding search and seizure issues changes frequently. The Bureau is responsible, with the assistance of the City Attorney’s Office, for training members regarding updates to the law. Members are responsible for acting in accordance with current training.

Procedure:

1. General Requirements for Searches and Seizures.
 - 1.1. Members shall not use any class protected by law, City, or Bureau policy in exercising discretion to conduct a search or seizure, except as part of an actual and apparently credible description of a specific suspect or suspects in any criminal investigation.
 - 1.2. Members shall strive to conduct searches and seizures with dignity and courtesy.
 - 1.3. Members shall conduct property searches in a manner that leaves property in a condition as close as reasonably practicable to its pre-search condition.
 - 1.4. When safe and feasible, members shall explain the reason for the search or seizure to the person being searched or seized.
 - 1.5. Members are responsible for searching persons they transport as an arrestee, regardless of whether another officer previously searched the person.
 - 1.6. When safe and feasible, members shall conduct searches with another member present.
 - 1.7. When safe and feasible, female members shall conduct searches of females.
 - 1.8. When a member is unsure of a person’s gender identity for the purpose of a search, the member shall respectfully ask the person how they identify in terms of gender.
 - 1.8.1. Members shall respect the gender identity expressed or presented by the person being searched.
 - 1.8.2. Members shall not frisk or search any person to determine that person’s gender, sex, or to view or touch the person’s genitals, or for any demeaning or harassing purpose.

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- 1.8.3. If a person identifies as transgender, gender non-conforming, or non-binary, the member will ask the person their preference with respect to the gender of the member conducting the search, and accommodate the preference, if safe and feasible.
- 1.8.4. Members shall not perform a more invasive search or frisk of a person who is transgender, gender non-conforming, or non-binary than would be conducted for non-transgender and gender-conforming persons under the same or similar circumstances.
- 1.9. Members shall document all searches in a police report. Documentation shall include the circumstances and the results of the search.
- 1.10. Members are to be aware that this Directive is more restrictive than state or federal laws.
2. Searches.
 - 2.1. Search Warrants.
 - 2.1.1. The United States and Oregon Constitutions both require police to obtain a warrant prior to conducting a search, unless there is a lawful exception.
 - 2.1.2. Members shall comply with Directive 652.00 regarding search warrants.
 - 2.1.3. Lawful exceptions to the requirement for a search warrant may include but are not limited to the following: abandoned/lost property, incident to arrest, automobile exception, community caretaking and emergency aid, consent, exigent circumstances, inventory, and open and/or plain view.
 - 2.2. Abandoned and/or Lost Property.
 - 2.2.1. Searching abandoned property does not require a warrant for a lawful search because the search does not invade any privacy interest.
 - 2.2.2. Abandonment may occur when a person physically discards and/or verbally denies ownership of property.
 - 2.2.3. Members may inspect property in an effort to identify the owner. When the sole purpose for a search is to identify the owner, members must stop the search once they identify the owner.
 - 2.3. Incident to Arrest.
 - 2.3.1. Members shall conduct a search of an arrestee if justified as:
 - 2.3.1.1. Necessary to protect the arresting officer;
 - 2.3.1.2. A precaution to avoid the destruction of evidence or escape of the arrestee; or
 - 2.3.1.3. Reasonably related to the crime for which the person is arrested.
 - 2.3.2. Members shall comply with Portland City Code Chapter 14C.10, Police Duties to Inventory Property.

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2.4. Automobile Exception.

2.4.1. Members may search lawfully stopped vehicles without a warrant when:

- 2.4.1.1. The member has probable cause to believe that the vehicle contains contraband or other evidence of a crime; AND
- 2.4.1.2. The vehicle was mobile at the initial police contact; AND
- 2.4.1.3. The vehicle is attended and operable at the time of the search.

2.4.2. A search under this exception may include closed containers where evidence may reasonably be found.

2.5. Community Caretaking and Emergency Aid.

2.5.1. Community Caretaking.

2.5.1.1. Members may enter or remain upon a premises if it reasonably appears necessary to:

- 2.5.1.1.1. Prevent serious harm to any person or property; or
- 2.5.1.1.2. Render aid to injured or ill persons; or
- 2.5.1.1.3. Locate missing persons;

2.5.1.2. The circumstances under 2.5.1.1. do not create an independent exception to the warrant requirement. Searches justified as community caretaking must also fall under a lawful exception to the warrant requirement, such as consent or emergency aid.

2.5.2. Emergency Aid.

2.5.2.1. The emergency aid doctrine provides an exception to the warrant requirement when the following conditions are met:

- 2.5.2.1.1. The member has reasonable grounds to believe that there is an emergency and an immediate need for their assistance for the protection of life;
- 2.5.2.1.2. The emergency is a “true emergency” – the member’s good faith alone is not sufficient;
- 2.5.2.1.3. The search is not primarily motivated by an intent to arrest or to seize evidence; and
- 2.5.2.1.4. The member reasonably suspects that the area or place to be searched is associated with the emergency and that, by making a warrantless entry, the member will discover something that will alleviate the emergency.

2.5.2.2. Members conducting searches under this doctrine shall document the circumstances and their actions in their duty notebook or a police report.

2.6. Consent Searches.

2.6.1. Both federal and state law allow police to conduct a valid search of a person, personal property, vehicle, or location, if the person being searched or the person in control of the property gives voluntary consent for the search.

2.6.2. Protective Consent Searches.

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2.6.2.1. Members may request consent to search a person, personal property, vehicle, or location when they have an articulable reason to protect themselves or others, or if they have a community caretaking purpose.

2.6.2.2. Examples of protective consent searches include, but are not limited to, the following: requesting consent to frisk a person prior to providing a courtesy transport, requesting consent to search a home for a missing child.

2.6.3. Investigative Consent Searches (not including Field Sobriety Tests).

2.6.3.1. Members shall only request consent to search a person, personal property, or vehicle *during a stop* if they have reasonable suspicion or probable cause regarding a crime.

2.6.3.2. Investigative Consent searches require the following:

2.6.3.2.1. Consent is clear, specific, and unequivocal.

2.6.3.2.2. Consent is voluntary and obtained without coercion.

2.6.3.2.3. The person consenting has actual authority to give consent.

2.6.3.2.4. If a person with equal authority to the property, vehicle, or location refuses consent, then no search shall occur without probable cause and a warrant or a valid warrant exception.

2.6.3.2.5. The search does not exceed the scope of the consent given.

2.6.3.3. Investigative Consent Search Procedure:

2.6.3.3.1. Members shall clearly inform the person of their right to refuse, and revoke, their consent.

2.6.3.3.2. Members shall document the request for consent, and the person’s response, via digital audio recording on their Bureau issued smart phone.

2.6.3.3.3. Members shall notify a person before audio recording them.

2.6.3.3.4. Members shall store the audio recording evidence in accordance with their specific RU’s SOPs. If no SOP or RU database exists, then members shall submit the audio recordings documenting the consent search procedure to DIMS prior to the end of their shift.

2.6.3.3.5. Members shall provide the consenting person with written notice of their right to refuse, and revoke, their consent.

2.6.3.3.6. Members shall not retaliate against any person for refusing or revoking their consent to a search.

2.6.3.3.7. Members shall document their reasonable suspicion or probable cause regarding a crime, and the results of the consent search, in a police report.

2.7. Exigent Circumstances.

2.7.1. Exigent circumstances sometimes allow for a warrantless search or seizure. Exigent circumstances exist when there is probable cause for a seizure or seizure, and police need to act swiftly to prevent danger to life, the imminent destruction of evidence, or a suspect’s escape.

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2.7.2. Members shall not create exigent circumstances by their own conduct in order to avoid seeking a warrant.

2.8. Inventory Searches.

2.8.1. Generally.

2.8.1.1. Members shall conduct inventory searches pursuant to Portland City Code Chapter 14C.10, Police Duties to Inventory Property.

2.8.1.2. Members shall process property and evidence according to Directive 660.10, Property and Evidence Procedures.

2.8.2. Vehicles.

2.8.2.1. Members shall inventory the contents of any vehicle the member impounds, other than vehicles towed at private request.

2.8.2.2. Members shall consult with a Detective Sergeant before impounding a vehicle that is part of a felony crime scene or known or suspected to contain evidence of a felony.

2.8.3. Persons.

2.8.3.1. Members shall inventory personal property in possession of any person taken into police custody whenever:

2.8.3.1.1. Such person will be placed in a secure police holding room or transported in the secure portion of a police vehicle; or

2.8.3.1.2. Custody of the person will be transferred to another law enforcement agency, correctional facility, or treatment facility.

2.8.3.2. The inventory shall include opening closed containers designed for holding money and/or small valuables, including but not limited to purses, coin purses, wallets, fanny backs, backpacks, briefcases, and jewelry pouches.

2.9. Open and Plain View.

2.9.1. Open view and plain view are two separate doctrines that, in different ways, remove the need for a warrant.

2.9.2. Plain View.

2.9.2.1. Members in a place where they have a lawful right to be may seize evidence in plain view without a search warrant.

2.9.2.2. Plain-View Seizure requires:

2.9.2.2.1. A justifiable intrusion onto the premises by the member;

2.9.2.2.2. The member observes the object in plain view from a lawful vantage point; and

2.9.2.2.3. The member has probable cause to seize the item observed.

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2.9.3. Open View.

2.9.3.1. A member’s observation, while lawfully outside but looking into a private space, does not require a warrant.

2.9.3.2. However, a warrant, or a lawful exception, is required to enter the private space or to seize evidence seen inside the private space.

3. Seizures.

3.1. The following are subject to seizure:

3.1.1. Evidence of or information concerning the commission of a criminal offense.

3.1.2. Contraband, the fruits of crime, or things otherwise criminally possessed.

3.1.3. Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense.

3.1.4. A person for whose arrest there is probable cause or who is unlawfully held in concealment.

3.2. Frisks and Officer Safety.

3.2.1. Members may frisk a stopped person for dangerous or deadly weapons if the member reasonably suspects that the person is armed and dangerous to the member or other persons present.

3.2.2. If, during the frisk, the member feels an object which they reasonably suspect is a dangerous or deadly weapon, the member may take action as reasonably necessary to take possession of the weapon.

4. Strip Searches and Body Cavity Searches.

4.1. Members shall obtain a supervisor’s permission to conduct a strip search.

4.2. Strip searches shall be conducted by members of the same gender as the person being searched, and witnessed by a second member of the same gender as the person being searched.

4.3. No person may be subject to a body cavity search without a search warrant or lawful exception.

4.4. A body cavity search shall only be conducted by authorized medical personnel in a medical facility.

Provide feedback [here](#).

650.00, Search, Seizures, and Inventories

Refer:

- ORS 131.005, General definitions
- ~~ORS 131.605, Definitions~~
- for ORS 131.605 -to 131.625
- ORS 131.615, Stopping of Persons
- ORS 133.033, Peace officer community caretaking functions
- ~~ORS 133.525—133.537 Search and Seizure, Definitions for ORS 133.525 to 133.703~~
- ORS 133.535, Permissible objects of search and seizure
- ORS 133.537, Protection of things seized
- ORS 153.039, Stop and detention for violation
- ORS 810.410, Arrest and citation
- City Code Chapter 14C.10, Police Duties to Inventory Property
- DIR 631.60, Premises Entry
- DIR 640.02, Photography and Digital Imaging
- DIR 652.00, Search Warrants
- DIR 660.10, Property and Evidence ~~Procedure~~Procedures
- DIR 850.21, Peace Officer Custody (Civil)
- DIR 870.20, Custody and Transportation of Subjects

Definitions:

- ~~Frisk: A cursory pat-down type physical search of a person.~~
- Inventory: A mandated examination of a person or personal property, subsequent to arrest or seizure, for purposes of safety and documentation.
Body cavity search: Any visual or physical inspection of a person's genital or anal region with or without physical contact or intrusion into a body cavity.
- ~~Frisk: An external patting of~~
- ~~Search: When a person's privacy interests are invaded. Unaided observation from a lawful vantage point is not a search in Oregon.~~
- ~~Seizure of property: When there is a significant interference with a person's possession or ownership interests in the property.~~
- ~~Strip search: A thorough search wherein the detainee's clothing is removed or rearranged so as to expose genitals, buttocks or breasts (when female).~~

Procedure:

1. Probable Cause:

- With certain exceptions (i.e., consent search, emergency aid, incident to arrest, parole/probation searches, and protective sweeps), most types of searches require probable cause to be valid. In general, probable cause to search means a
Inventory: An administrative, non-discretionary search made for the purpose of protecting a person's property from loss or theft and preventing government liability for loss or theft.

~~1.1. Probable cause: Probable cause means that there is a substantial objective basis to believe for believing that more likely than not:~~

- ~~• A criminal an offense is being, or has been committed and a person to be arrested has committed it.~~
- ~~• Reasonable suspicion: An objective test measured at the time and place the member acts and based on the totality of the circumstances, which requires a member to point to specific, articulable facts giving rise to a reasonable inference that a subject has engaged or is engaging in criminal activity.~~
- ~~• Search: When an officer intrudes upon a person's protected privacy interests.~~
- ~~• Seizure of a person: When an officer significantly interferes with a person's liberty of movement, including but not limited to pedestrian stops, traffic stops, and arrests.~~

~~1.1.1. Seizure of property: When Items of evidence pertaining to that criminal offense are in a specific place sought to be searched.~~

~~2. Search Warrants and Exceptions:~~

- ~~• As a general rule, an officer significantly interferes with a person's possession or ownership interests in their property.~~
- ~~• Strip Search: A search of a person that includes the removal of clothing to permit visual inspection of the person's groin/genital area, buttocks, breasts, or undergarments covering those areas.~~

Policy:

- ~~1. Both federal and state Constitutions protect every person against unreasonable governmental searches and seizures. This policy provides guidance for members to act in accordance with the law and respect the constitutional rights of individuals during searches and seizures.~~
- ~~2. Case law regarding search and seizure issues changes frequently. The Bureau is responsible, with the assistance of the City Attorney's Office, for training members regarding updates to the law. Members are responsible for acting in accordance with current training.~~

Procedure:

- ~~1. General Requirements for Searches and Seizures.~~
 - ~~1.1. Members shall not use any class protected by law, City, or Bureau policy in exercising discretion to conduct a search or seizure, except as part of an actual and apparently credible description of a specific suspect or suspects in any criminal investigation.~~
 - ~~1.2. Members shall strive to conduct searches and seizures with dignity and courtesy.~~
 - ~~1.3. Members shall conduct property searches in a manner that leaves property in a condition as close as reasonably practicable to its pre-search condition.~~
 - ~~1.4. When safe and feasible, members shall explain the reason for the search or seizure to the person being searched or seized.~~

1.5. Members are responsible for searching persons they transport as an arrestee, regardless of whether another officer previously searched the person.

1.6. When safe and feasible, members shall conduct searches with another member present.

1.7. When safe and feasible, female members shall conduct searches of females.

1.8. When a member is unsure of a person's gender identity for the purpose of a search, the member shall respectfully ask the person how they identify in terms of gender.

1.8.1. Members shall respect the gender identity expressed or presented by the person being searched.

1.8.2. Members shall not frisk or search any person to determine that person's gender, sex, or to view or touch the person's genitals, or for any demeaning or harassing purpose.

1.8.3. If a person identifies as transgender, gender non-conforming, or non-binary, the member will ask the person their preference with respect to the gender of the member conducting the search, and accommodate the preference, if safe and feasible.

1.8.4. Members shall not perform a more invasive search or frisk of a person who is transgender, gender non-conforming, or non-binary than would be conducted for non-transgender and gender-conforming persons under the same or similar circumstances.

1.9. Members shall document all searches in a police report. Documentation shall include the circumstances and the results of the search.

1.10. Members are to be aware that this Directive is more restrictive than state or federal laws.

2. Searches.

2.1. Search Warrants.

2.1.1. The United States and Oregon Constitutions both require police to obtain a search warrant (see prior to conducting a search, unless there is a lawful exception.

2.1.2. Members shall comply with Directive 652.00). There are regarding search warrants.

2.1.3. Lawful exceptions to this general rule, wherein the requirement for a search warrant is not required as a prerequisite to conducting a search (i.e., administrative may include but are not limited to the following: abandoned/lost property, incident to arrest, automobile exception, community caretaking, consent, and emergency aid, consent, exigent circumstances, hot pursuit, incident to arrest, parole/probation searches, protective sweeps, and stop & frisk). In order to search without a inventory, and open and/or plain view.

2.2. Abandoned and/or Lost Property.

2.2.1. Searching abandoned property does not require a warrant for a lawful search because the search does not invade any privacy interest.

2.2.2. Abandonment may occur when a person physically discards and/or verbally denies ownership of property.

~~2.1.1-2.2.3. Members may inspect property in an effort to identify the owner. When the sole purpose for a search is to identify the owner, members must comply with the requirements for an exception as currently set down by the courts. stop the search once they identify the owner.~~

2.3. Incident to Arrest.

2.3.1. Members shall conduct a search of an arrestee if justified as:

2.3.1.1. Necessary to protect the arresting officer;

2.3.1.2. A precaution to avoid the destruction of evidence or escape of the arrestee; or

2.3.1.3. Reasonably related to the crime for which the person is arrested.

2.3.2. Members shall comply with Portland City Code Chapter 14C.10, Police Duties to Inventory Property.

2.4. Automobile Exception.

2.4.1. Members may search lawfully stopped vehicles without a warrant when:

2.4.1.1. The member has probable cause to believe that the vehicle contains contraband or other evidence of a crime; AND

2.4.1.2. The vehicle was mobile at the initial police contact; AND

2.4.1.3. The vehicle is attended and operable at the time of the search.

2.4.2. A search under this exception may include closed containers where evidence may reasonably be found.

2.5. Community Caretaking and Emergency Aid.

2.5.1. Community Caretaking.

2.5.1.1. Members may enter or remain upon a premises if it reasonably appears necessary to:

2.5.1.1.1. Prevent serious harm to any person or property; or

2.5.1.1.2. Render aid to injured or ill persons; or

2.5.1.1.3. Locate missing persons;

2.5.1.2. The circumstances under 2.5.1.1. do not create an independent exception to the warrant requirement. Searches justified as community caretaking must also fall under a lawful exception to the warrant requirement, such as consent or emergency aid.

2.5.2. Emergency Aid.

2.5.2.1. The emergency aid doctrine provides an exception to the warrant requirement when the following conditions are met:

2.5.2.1.1. The member has reasonable grounds to believe that there is an emergency and an immediate need for their assistance for the protection of life;

2.5.2.1.2. The emergency is a “true emergency” – the member’s good faith alone is not sufficient;

2.5.2.1.3. The search is not primarily motivated by an intent to arrest or to seize evidence; and

2.5.2.1.4. The member reasonably suspects that the area or place to be searched is associated with the emergency and that, by making a warrantless entry, the member will discover something that will alleviate the emergency.

2.5.2.2. Members conducting searches under this doctrine shall document the circumstances and their actions in their duty notebook or a police report.

2.6. Consent Searches.

2.6.1. Both federal and state law allow police to conduct a valid search of a person, personal property, vehicle, or location, if the person being searched or the person in control of the property gives voluntary consent for the search.

2.6.2. Protective Consent Searches.

2.6.2.1. Members may request consent to search a person, personal property, vehicle, or location when they have an articulable reason to protect themselves or others, or if they have a community caretaking purpose.

2.6.2.2. Examples of protective consent searches include, but are not limited to, the following: requesting consent to frisk a person prior to providing a courtesy transport, requesting consent to search a home for a missing child.

2.6.3. Investigative Consent Searches (not including Field Sobriety Tests).

2.6.3.1. Members shall only request consent to search a person, personal property, or vehicle during a stop if they have reasonable suspicion or probable cause regarding a crime.

2.6.3.2. Investigative Consent searches require the following:

2.6.3.2.1. Consent is clear, specific, and unequivocal.

2.6.3.2.2. Consent is voluntary and obtained without coercion.

2.6.3.2.3. The person consenting has actual authority to give consent.

2.6.3.2.4. If a person with equal authority to the property, vehicle, or location refuses consent, then no search shall occur without probable cause and a warrant or a valid warrant exception.

2.6.3.2.5. The search does not exceed the scope of the consent given.

2.6.3.3. Investigative Consent Search Procedure:

2.6.3.3.1. Members shall clearly inform the person of their right to refuse, and revoke, their consent.

2.6.3.3.2. Members shall document the request for consent, and the person's response, via digital audio recording on their Bureau issued smart phone.

2.6.3.3.3. Members shall notify a person before audio recording them.

2.6.3.3.4. Members shall store the audio recording evidence in accordance with their specific RU's SOPs. If no SOP or RU database exists, then members shall submit the audio recordings documenting the consent search procedure to DIMS prior to the end of their shift.

2.6.3.3.5. Members shall provide the consenting person with written notice of their right to refuse, and revoke, their consent.

2.6.3.3.6. Members shall not retaliate against any person for refusing or revoking their consent to a search.

2.6.3.3.7. Members shall document their reasonable suspicion or probable cause regarding a crime, and the results of the consent search, in a police report.

2.7. Exigent Circumstances.

2.7.1. Exigent circumstances sometimes allow for a warrantless search or seizure. Exigent circumstances exist when there is probable cause for a seizure or seizure, and police need to act swiftly to prevent danger to life, the imminent destruction of evidence, or a suspect's escape.

2.7.2. Members shall not create exigent circumstances by their own conduct in order to avoid seeking a warrant.

2.8. Inventory Searches.

2.8.1. Generally.

2.8.1.1. Members shall conduct inventory searches pursuant to Portland City Code Chapter 14C.10, Police Duties to Inventory Property.

2.8.1.2. Members shall process property and evidence according to Directive 660.10, Property and Evidence Procedures.

2.8.2. Vehicles.

2.8.2.1. Members shall inventory the contents of any vehicle the member impounds, other than vehicles towed at private request.

2.8.2.2. Members shall consult with a Detective Sergeant before impounding a vehicle that is part of a felony crime scene or known or suspected to contain evidence of a felony.

2.8.3. Persons.

2.8.3.1. Members shall inventory personal property in possession of any person taken into police custody whenever:

2.8.3.1.1. Such person will be placed in a secure police holding room or transported in the secure portion of a police vehicle; or

2.8.3.1.2. Custody of the person will be transferred to another law enforcement agency, correctional facility, or treatment facility.

2.8.3.2. The inventory shall include opening closed containers designed for holding money and/or small valuables, including but not limited to purses, coin purses, wallets, fanny backs, backpacks, briefcases, and jewelry pouches.

2.9. Open and Plain View.

2.9.1. Open view and plain view are two separate doctrines that, in different ways, remove the need for a warrant.

2.9.2. Plain View.

2.9.2.1. Members in a place where they have a lawful right to be may seize evidence in plain view without a search warrant.

2.9.2.2. Plain-View Seizure requires:

2.9.2.2.1. A justifiable intrusion onto the premises by the member;

2.9.2.2.2. The member observes the object in plain view from a lawful vantage point; and

2.9.2.2.3. The member has probable cause to seize the item observed.

2.9.3. Open View.

2.9.3.1. A member's observation, while lawfully outside but looking into a private space, does not require a warrant.

2.9.3.2. However, a warrant, or a lawful exception, is required to enter the private space or to seize evidence seen inside the private space.

3. Seizures.

3.1. The following are subject to seizure:

3.1.1. Evidence of or information concerning the commission of a criminal offense.

3.1.2. Contraband, the fruits of crime, or things otherwise criminally possessed.

3.1.3. Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense.

3.1.4. A person for whose arrest there is probable cause or who is unlawfully held in concealment (i.e., children held in violation of a custody order).

3.2. Frisks and held in concealment from Officer Safety.

3.1.4.3.2.1. Members may frisk a stopped person for dangerous or deadly weapons if the member reasonably suspects that the person is armed and dangerous to the member or other persons present.

4. Member Responsibilities:

4.1. As this area of law is constantly changing, it is all members' responsibility to remain aware of current law (via Tips and Techniques, in-service training, etc.).

3.2.2. Generally, If, during the frisk, the member feels an object which they reasonably suspect is a dangerous or deadly weapon, the member may take action as reasonably necessary to take possession of the weapon.

4. Strip Searches and Body Cavity Searches.

4.1. Members shall obtain a supervisor's permission to conduct a strip search.

4.2. Strip searches and inventories of a detainee may shall be conducted by a membermembers of the oppositesame gender from that ofas the detainee. When safetyperson being searched, and other tactical considerations permit, in the judgment of the member(s) at the scene, the Bureau recommends that a memberwitnessed by a second member of the same gender as the detainee conduct the search.person being searched.

4.3. When a strip search is conducted, the search will be done by a member of the same gender as that of the detainee. A second member, preferably of the same gender as the detainee, will monitor the search (for safety and witnessing).

4.3. A probing search into the vagina or anus of a detainee will not be done except under the authority of a search warrant and willNo person may be subject to a body cavity search without a search warrant or lawful exception.

- 4.4. A body cavity search shall only be ~~performed~~conducted by authorized medical personnel ~~at~~in a medical facility.
- 4.5. ~~Members should document all searches in their notebook or an appropriate report. This documentation should include reasons for, nature of and results of the search.~~
- 4.6. ~~Unreasonable searches can result in discipline, suppression of evidence in criminal court or an award of damages in civil court.~~

~~5. Inventories:~~

- 5.1. ~~Vehicles: Every vehicle towed (except private request tows) will be inventoried (City Code 14.10). A Property Receipt must be completed accounting for all items seized. If the vehicle's owner or custodian is not available, a copy of the Property Receipt will be placed in a conspicuous place in the vehicle or given to the tow operator. When a vehicle is part of a felony crime scene, or known (or suspected) to contain evidence of a felony, members should consult with an investigative sergeant prior to towing the vehicle.~~
- 5.2. ~~Detainees' Personal Property: Per City Code 14.10, members will inventory all property of detainees.~~
- 5.2.1. ~~Prior to detention in a secure facility (i.e., police vehicle) or transport, members will remove all toxic, flammable, or explosive substances; contraband; articles or potential articles of escape; weapons and objects that are potential weapons.~~
- 5.2.2. ~~Once a detainee is accepted at a detention facility (i.e., MCDC), members will handle the detainee's personal property in accordance with the detention facility's policies and DIR 660.10 (i.e., placed in MCDC with the detainee, placed in the Property Room as evidence or safekeeping).~~

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 15, 2020 10:10:14 AM
Last Modified: Thursday, October 15, 2020 10:12:27 AM
Time Spent: 00:02:12

Page 1

Q1

Please provide feedback for this directive

Adding "Sworn members" will be helpful. Are PS3's allowed to inventory vehicles? If they are towing recovered vehicles, this would require they inventory the vehicle.

Q2

Contact Information (optional)

Name **Caroline Greulich**

Email Address

Phone Number

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 15, 2020 10:15:32 AM
Last Modified: Thursday, October 15, 2020 10:18:08 AM
Time Spent: 00:02:35

Page 1

Q1

Please provide feedback for this directive

Remove "stop and frisk" and cease any such or similar activities.

Q2

Respondent skipped this question

Contact Information (optional)

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 15, 2020 11:01:33 AM
Last Modified: Thursday, October 15, 2020 11:04:17 AM
Time Spent: 00:02:44

Page 1

Q1

Please provide feedback for this directive

Please provide definition of protective sweeps and a piece of verbiage that gives the person searching a little latitude for discretion of "protective".

Q2

Contact Information (optional)

Name **James Goleman**

Email Address

Phone Number

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 15, 2020 11:17:29 AM
Last Modified: Thursday, October 15, 2020 11:47:24 AM
Time Spent: 00:29:55

Page 1

Q1

Please provide feedback for this directive

This definition mentions gender specific to a body part which is inappropriate since people who are not female also have breasts: "Strip search: A thorough search wherein the detainee's clothing is removed or rearranged so as to expose genitals, buttocks or breasts (when female)."

Under Procedure; probable cause - protective sweeps should not be excluded from this requirement as the people subject to sweeps are the most vulnerable in our community and leave them in worse conditions afterwards; Police should absolutely have probable cause and encampment areas should be treated like the personal property that they are; Police should have to follow the same procedures as if entering a home as that is what they are doing.

Under Search Warrants & Exceptions: these exceptions need to be reined in: what constitutes an exigent circumstances? The hot pursuit exception should be done away with as it only means an officer needs to scare a subject into running to be validated for a search. Protective sweeps exception needs to be removed for the same reasons listed above under probable cause. Why is stop & frisk still listed as an exception? Why are we allowing any stop & frisk activity by police in our city when it is known to be harmful to vulnerable communities?

2.2.3. Property thatis possessed for the purpose of being used, to commit or conceal the commission of an offense. - This is an extremely broad statement that allows any creative officer to find justification for seizing property through their own determination of what it's use might be.

3.2. Generally, searches and inventories of a detainee may be conducted by a member of the opposite gender from that of the detainee. When safety and other tactical considerations permit, in the judgment of the member(s) at the scene, the Bureau recommends that a member of the same gender as the detainee conduct the search.

3.3. When a strip search is conducted, the search will be done by a member of the same gender as that of the detainee. A second member, preferably of the same gender as the detainee, will monitor the search (for safety and witnessing). - - This whole section needs a rewrite as there are more than 2 genders; our state driver's licenses include a non-binary designation and the directives followed by our police need to take that into consideration. People should be consulted as to what gender(s) they are comfortable with conducting searches of their person. They should also be given the option to not choose by gender and request an officer who is a member of the LGBTQ+ community to do the search. There needs to be better education around gender for police officers as this current procedure leads to misgendering and damaging assumptions and questions about genitalia which are inappropriate. It also may make some people more comfortable to have two people who identify as different genders present for their search; especially when nonbinary officers are unavailable. The person being searched should dictate all these things.

Q2

Respondent skipped this question

Contact Information (optional)

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 15, 2020 4:33:28 PM
Last Modified: Thursday, October 15, 2020 4:35:11 PM
Time Spent: 00:01:43

Page 1

Q1

Please provide feedback for this directive

The language regarding genders being binary is incorrect. There is no such thing as an “opposite” gender. Best practice would be to ask detainees which gendered Officer they’d be most comfortable with.

Q2

Respondent skipped this question

Contact Information (optional)

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, October 16, 2020 10:32:09 AM
Last Modified: Friday, October 16, 2020 10:36:06 AM
Time Spent: 00:03:57

Page 1

Q1

Please provide feedback for this directive

The section about exceptions to search warrant requirements seems excessively broad. The number of exceptions is alarming and the reference to "stop and frisk" is particularly concerning.

Q2

Contact Information (optional)

Name **Linnea**

Email Address

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Sunday, October 18, 2020 8:53:20 AM
Last Modified: Sunday, October 18, 2020 9:32:22 AM
Time Spent: 00:39:01

Page 1

Q1

Please provide feedback for this directive

In now way, under absolutely no circumstances can ANY woman trust PPB to act respectfully toward woman within or outside of detention (3.2). Nor can we trust an accountability system you might think is available. This seems to give procedural support for existing intolerable misbehavior.

Q2

Contact Information (optional)

Name **Susan Cotter**

Email Address

Phone Number

#8

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 19, 2020 7:22:40 PM
Last Modified: Monday, October 19, 2020 7:58:25 PM
Time Spent: 00:35:45

Page 1

Q1

Please provide feedback for this directive

Sections 3.2 and 3.3: The term "gender" does not mean "male" and "female" to a fairly vocal group. To avoid all the complications associated with having someone "pick a side" perhaps the word GENDER needs to have a definition or an explanation that for the purposes of this directive, GENDER MEANS HAVING MALE PHYSICAL CHARACTERISTICS (I.E, A PENIS) OR FEMALE REPRODUCTIVE CHARACTERISTICS (I.E, A VAGINA).

Or there needs to be wording such as:

3.2. Generally, searches and inventories of a detainee may be conducted by a member of A DIFFERENT gender... the Bureau recommends that a member of the same gender OR SIMILAR GENDER as the detainee...

3.3. When a strip search is conducted, the search will be done by a member of the same gender or SIMILAR GENDER OR GENDER DETAINEE IDENTIFIES AS, AS LONG AS THE MALE OR FEMALE CHARACTERISTICS ARE THE SAME OR SIMILAR TO THE OFFICER... This is a can of worms.

The issue here is that if someone is non-binary or bi-gender or agender... then who is doing the searching, assuming the officer is none of these? Perhaps there needs to be verbage describing that if a male identifies as a woman, but has male reproductive parts, then that person is strip searched by a male officer. It is obvious that if a person has transitioned to another gender, post-op, then their current physical characteristics/identity should be respected.

But a person who identifies as a female with male genitalia should not be strip searched by a female officer. Similarly, a female that identifies as a male, but still has female genitalia should not be strip searched by a male officer.

While there is no way to please everyone and, as officers, we all know what is expected of us, where is the line drawn? We are already required to use THEY, THEM, in place of him or her (regardless of the person's physical characteristics) which creates a whole different set of problems for officers trying to speak about a group of people vs one person, especially when the subject matter includes both a single person and a group of people. Precedent has already been set by the City of Portland and the expectation will be that all genders are reference.

Regarding 4.1 and 4.2:

This directive makes no mention of closed containers. Portland City Code 14C.10.030 has very clear verbage regarding the opening of closed containers. This should probably be mentioned.

Q2

Contact Information (optional)

Name

Hythum Ismail

Email Address

Phone Number

#9

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 19, 2020 8:26:39 PM
Last Modified: Monday, October 19, 2020 8:27:11 PM
Time Spent: 00:00:31

Page 1

Q1

Please provide feedback for this directive

appears reasonable and appropriate

Q2

Respondent skipped this question

Contact Information (optional)

#10

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Saturday, October 24, 2020 6:10:35 PM
Last Modified: Saturday, October 24, 2020 6:13:13 PM
Time Spent: 00:02:37

Page 1

Q1

Please provide feedback for this directive

search and inventory should not make reference to gender of individual. It should just be done the same every time.

If explosives are found, this directive should instruct officers to contact EDU. Explosive materials should not be handled by officers.

Q2

Contact Information (optional)

Name **Michael Hall**

Phone Number

#11

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 26, 2020 12:27:10 PM
Last Modified: Monday, October 26, 2020 12:28:42 PM
Time Spent: 00:01:32

Page 1

Q1

Please provide feedback for this directive

COMMENTS ON CRITICAL INCIDENT DUTY, SEARCH AND COLLISION BOARD DIRECTIVES, OCTOBER 2020

To Chief Lovell, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are Portland Copwatch's comments on the Critical Incident Altered Duty (416.00), Search/Seizure/Inventory and Collision Review Board Directives posted for review in October . Portland Copwatch (PCW) sent in comments on 416.00 in February and on 650.00 in May, 2018 (and we sent a link to those comments in August 2019). Most of the comments here are the same as our previous ones with a few updates. We did not previously comment on 640.52 but have done so here.

We would still like to see the policies include letters to identify section headings (Definitions, Policy, Procedure) so that there are not multiple sections with the same numbers, and to enumerate the Definitions. Our comments below refer to the Procedure Section unless otherwise noted.

DIRECTIVE 650.00 SEARCH, SEIZURES AND INVENTORIES

We commented on this Directive in October, 2014 and May 2018 (and provided a link to those comments in August 2019). It still appears that none of our comments led to changes in the policy. In fact, no changes were made at all to the policy, which is currently being considered as an extended comment period retroactive to 14 months ago.

We repeat our previous comments here with some fine-tuning and updates:

--One term that jumps out in the directive is the exception to searches needing warrants called "stop and frisk" (Section 2.1). While the term "frisk" is defined ("a cursory pat-down type physical search of a person"), the action of a police "stop and frisk" is not. Such behavior by police has generated serious mistrust in this community and across the nation (especially in New York), so a narrow definition of when/whether "stop and frisk" is lawful and appropriate would go a long way to build trust. We have repeatedly expressed concern that Portland officers will engage in what is actually "mere conversation" but preface it by conducting a pat-down, which seems inappropriate and possibly illegal.

--We asked for the Directive to be reviewed for its impact on transgender individuals, including the definition of "Strip Search" which refers to a person "when female." Also, we asked the PPB to clarify the provisions for officers who are of the "opposite gender" to perform searches based on the officers' judgment (Section 3.2). We recommend asking the suspect what they would prefer before performing a search. It's also troubling that the witness to a strip search, which is required to be done by an officer of the same gender as the suspect, can be witnessed by an opposite gender officer (Section 3.3). We hope the Bureau will reach out to LGBTQ organizations for input.

--While the definition may meet legal standards, defining "seizure of property" as "significant interference with a person's possession or ownership interests" doesn't quite cover "taking someone's stuff" for the layperson.

--Again, the law may be on the Bureau's side, but it seems very questionable for officers to use a property inventory to "inadvertently" discover evidence of a crime, then charge the suspect with that crime (Section 4.2.3).

Our recommendation to require officers to advise people being searched without a warrant that they have the right to refuse such a search appears to be part of Mayor Wheeler's plan for police accountability (per the Compliance Officer's October 2020 report, p. 54), albeit specifically tied to traffic stops. Wheeler proposed having people sign a waiver if they agree to a consent search, which is an idea we support. Perhaps, though, there should also be a checkbox for "I do not consent to a search" so the form itself is not seen as

650.00 Directive Feedback

coercive. Since many people either do not know their rights or are afraid to contradict an officer because they fear the consequences, we hope this Directive will incorporate a broad requirement for proof of consent for all discretionary searches. As we've noted before, the Directive should remind officers that it is ok for the community member to refuse the search without repercussion.

CONCLUSION

PCW recognizes that the Portland Committee on Community Engaged Policing have begun making recommendations on policies. It should be clear to the PPB that a group like PCCEP which meets monthly will be unable to meet 15 day deadlines. The policy team met with the PCCEP's Settlement Agreement and Policy Subcommittee on October 14. It is not clear whether the Bureau addressed how PCCEP will be looped in to future discussions. We hope that the PPB is taking note that hundreds of people have been pushing for change by taking to the streets, even under a pandemic, and that in some people's eyes PCW's common-sense proposals do not go far enough. Our philosophy remains that so long as there are police, we must have ways to hold them accountable. Should the Bureau be dismantled or replaced with other agencies, watchdog groups will likely have to keep an eye on policies of those groups as well.

Thank you for your time

--dan handelman and other members of
--Portland Copwatch

Q2

Contact Information (optional)

Name

Portland Copwatch

Email Address

#12

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, October 27, 2020 8:05:09 AM
Last Modified: Tuesday, October 27, 2020 8:06:59 AM
Time Spent: 00:01:50

Page 1

Q1

Please provide feedback for this directive

Section 3.5:

"Members should document all searches in their notebook or an appropriate report. This documentation should include reasons for, nature of and results of the search."

Feedback:

Using a notebook for record keeping is incongruent with the 21st Century Policing goals of Technology and Oversight . Additionally, it does not facilitate meaningful analysis and reporting on one of policing's most "high-profile" data points. By giving sworn personnel the OPTION to maintain written records OR make an electronic report, PPB's ability to perform the necessary analytical and administrative functions are undermined.

As stated in section 1.2 of PPB Directive 900.00:

"Members taking any official police action, on or off duty, shall write and submit an appropriate report to cover the incident, except in cases where the coded disposition sufficiently captures the resolution of the event."

...

"Members shall submit reports through the current Bureau-approved electronic platform."

Q2

Respondent skipped this question

Contact Information (optional)

#13

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, October 28, 2020 10:25:35 AM
Last Modified: Wednesday, October 28, 2020 10:26:00 AM
Time Spent: 00:00:25

Page 1

Q1

Please provide feedback for this directive

To Whom This May Concern:

After reviewing directive 0650.00 Search, Seizures, and Inventories I would like to offer a few suggestions to improve this directive.

Definitions:

(Inventory: A mandated examination of a person or personal property, subsequent to arrest or seizure, for purposes of safety and documentation.)

- The definition of inventory is too broad and can be interpreted by officers and even the public in different ways. To define it for the purpose of safety and documentation could mean anything. An example of this could be when an officer is conducting a mental health hold which is different than an actual arrest. This definition could mean that the officer has the authority to inventory what he/she/they had seized from that person all for the purpose of "safety and documentation." The term safety and documentation in this statement could also be interpreted in different ways. An officer could inventory someone personal property even though they have no reason to for the "purpose of safety and documentation to him/her." Thus, what initially would be a mental health hold, could turn criminal when it shouldn't if that officer had found something that might be incriminating all for the purpose of "safety and documentation."

(Seizure of property: When there is a significant interference with a person's possession or ownership interest in the property.)

- The definition of Seizure of property is too broad and the interpretation of this can mean many things. When an officer is "seizing" someone's property, what does this exactly mean? Are they seizing this as the owner/person is unable to care for their own personal belonging, is it due to something an officer considers that property to be unlawful; what does seizure of property entail? This definition needs to be a bit more clarified as the average public will not understand this definition and it could be interpreted in many different ways.

(Strip Search: A thorough search wherein the detainee's clothing is removed or rearranged so as to expose genital, buttocks or breasts (when female)).

- As we as a society advance in understand the biology and psychology of people, people have evolved and can associate in various genders especially the trans community. When reading this definition of "strip search," there appears to be a gender bias. Breast can also apply to an identified male. Thus, I would recommend removing (when female) to address a larger population.

(Member) Please add a definition of what this means. Does this mean member of the police bureau, member of the community, etc.?

Procedure:

2. Search Warrants and Exceptions

In the section that states: "In order to search without a warrant, members must comply with the requirements for an exception as currently set down by the courts" this language is vague and can be interpreted in different ways. The first paragraph provided what the exceptions were such as "(i.e. administrative, automobile exception, community caretaking, consent, emergency aid, exigent circumstances, hot pursuit, incident to arrest, parole/probation searches, protective sweeps and stop & frisk)." Since the bureau provided clear examples here, are there any other exceptions that should be listed? My suggestion is to provide the public with a clear understanding of what these exceptions are that are not needed without a warrant. The general public will not understand what this means, nor do they understand the requirements that is required by them. This portion of the procedure is vague and could be interpreted in many different ways. I would recommend cleaning up the language that provides clarity to what this means for the "member" to understand.

3. Member Responsibilities

As this is written, members of the community will not know where to look for this information on a "constantly" changing aspects. If the police bureau wants members to understand changes to a directive, it's in the best interest of the bureau to include some kind of accountability of publishing these changes so members of the community are aware of these changes. When navigating on the Portland Police Bureau website, this information is not readily accessible to the public. Instead, one has to search a couple of different times in various outlets, (i.e. google and Facebook posting), in order to read about current directives or input to directives that the bureau is plan on making. My suggestion is to please include some sort of link on the beginning page of the website for the community to read, conduct feedback and input to these directives instead of having to dig through and search before stumbling upon these directives.

Additional Feedback:

The information provided in this directive was very informative but could use some clarity as I highlighted above. It would be in the best interest of the bureau to please clarify as much of the definition, meanings, and examples that is provided in this directive in order for the public to understand and comprehend with clarity what this directive means. Additionally, a follow up publication of this directive

650.00 Directive Feedback

would be beneficial for the public to review before the directive is finalized. As this bureau know, it's been challenging times for all law enforcement agencies. It would be in the best interest to provide as much communication, time, and clarity to the public for them to read over directives such as these. Additionally, it would be beneficial if these directives could be found in an easily accessible place, rather than having to google search or scouring Facebook to find these directives. Thank you for your time.

Sincerely,

Levin Manabat, BSW

Q2

Contact Information (optional)

Name

Levin Manabat

Email Address

Phone Number
