



## **Cover Memorandum**

### **Search and Seizure, JHPD Directive #411**

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#### **Purpose of the Directive**

The purpose of this Directive is to ensure that Johns Hopkins Police Department (JHPD) members conduct Search and Seizure in strict accordance with the rights secured and protected by the Constitution and laws of the United States and the State of Maryland, and in accordance with the additional limitations of this Directive.

#### **Summary of Directive Requirements**

This Directive establishes guidelines for members of the JHPD to comply with legal requirements related to conducting searches of persons and places.

Generally, the Directive explains the requirement to obtain a search warrant prior to conducting a search, unless one of the limited exceptions to that requirement applies.

Although the need for a member to obtain a search and seizure warrant will likely be rare, this Directive explains the requirements for obtaining a search warrant. Most significantly and in order to reduce and prevent community harm, this Directive prohibits no-knock search warrants and requires that all search and seizure warrants be served between the hours of 8:00 a.m. and 7:00 p.m. The Directive also significantly restricts the use of forcible entry.

The Directive explains the requirements for the most common warrant exceptions and provides the prohibitions and procedural requirements related to each. The Directive covers the following exceptions to the warrant requirement:

- Probable Cause Search of a Vehicle;
- Exigent Circumstances;
- Search Incident to Arrest; and
- Consent Search.

Most importantly, this Directive limits a JHPD officer's authority to request permission to conduct a search of a person, regardless of whether the person consents to the search. Although legally police officers may request permission to search a person at any time, under this Directive, JHPD officers are not permitted to do so. Instead, JHPD officers must have reasonable suspicion to believe that a criminal offense has occurred, and that evidence of that crime will be found on the person or thing being searched, prior to requesting permission to conduct a consent search.

## **Blueprint for the Policy Development Process**

The draft JHPD policies (hereinafter referred to as “directives”) shared for community feedback are based on examples of 21st century best practices in public safety policy, identified through extensive benchmarking of university and municipal law enforcement agencies across the nation. Taken together, they represent a comprehensively progressive approach to policing that prioritizes equity, transparency, accountability, and community-based public safety strategies.

The JHPD’s draft directives embody approaches that community advocates and leading experts have championed locally and in law enforcement reform efforts across the nation. The draft directives have also been developed based on input received through robust community engagement in prior phases of JHPD development, including suggestions received in the legislative process as well as last fall’s Memorandum of Understanding (MOU) public comment period and feedback opportunities.

In addition, the directives were drafted to exceed the minimum requirements of the Constitution and laws of the United States and the State of Maryland, to align with the Community Safety and Strengthening Act (CSSA) and to fulfill the requirements of the MOU between the Johns Hopkins University and the Baltimore Police Department. The Hopkins community and our neighbors throughout Baltimore can help improve and strengthen these directives further through their feedback and input.

Material that was considered in the drafting of the Directive and Procedure Manual, include:

- a. **Publicly available policies from municipal police departments that have undergone substantial reform efforts**, including: the New Orleans Police Department; Seattle Police Department; Portland Police Department; Detroit Police Department; Ferguson Police Department; and Baltimore Police Department;
- b. **National guidance on best practices and model policies from criminal justice reform efforts, social science research centers, and civil rights organizations**, including: the Leadership Conference on Civil and Human Rights; American Civil Liberties Union (ACLU), including the ACLU of Massachusetts’s “Racially Just Policing: Model Policies for Colleges and Universities”; the International Association of Chiefs of Police (IACP); the Police Executive Research Forum (PERF); U.S. Department of Justice Office of Community Oriented Policing Services (COPS Office); The Justice Collaboratory (The JC) at Yale University Law School; and The Center for Innovation in Community Safety (CICS) at Georgetown Law School.
- c. **National and local higher education institutions that are based in comparable environments and make policies publicly available**, including: Carnegie Mellon University; Morgan State University; Towson University; University of Chicago; University of Cincinnati; University of Maryland, Baltimore County; University of Pennsylvania; and Yale University.

To ensure that the proposed directives captured national best practices in community-focused public safety services, the development team collaborated with independent experts from two organizations: National Policing Institute (the Institute), a non-profit dedicated to advancing excellence in policing through research and innovation, and 21CP Solutions, an expert consulting team of former law enforcement personnel, academics, civil rights lawyers, and community leaders dedicated to advancing safe, fair, equitable, and inclusive public safety solutions. Each directive was reviewed by experts selected by both organizations, who provided feedback, suggestions, and edits that were fully incorporated into the current draft.

Finally, individuals and organizations representing the diversity of the Johns Hopkins University community provided feedback to ensure the policies and procedures reflect and respond to the values of our institution and to our community's public safety service needs.

Now they are available for your review. Johns Hopkins is committed to adopting, incorporating, or otherwise reflecting recommended changes and feedback in the final version of policies so long as feedback is aligned with our values and commitments, permissible within legal parameters, and supported by national best practices for community policing and public safety.



**POLICE DEPARTMENT**  
**SEARCH & SEIZURE**

**OPERATIONAL  
PROCEDURE #411**

Responsible Executive:  
Chief of Police  
Responsible Office:  
Vice President for Public Safety  
Approved by:  
Dr. Branville G. Bard, Jr.  
Issued: [full date]  
Revised: [full date]

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## Policy Statement

Johns Hopkins recognizes that law enforcement officers have both a duty and the authority to investigate activities that may be associated with a violation of criminal and motor vehicle laws within the campus defined area. It shall be the policy of the Johns Hopkins Police Department (JHPD) that the performance of such duties be in conformance with the U.S. Constitution, Maryland Declaration of Rights, the policies and procedures established by the University and the JHPD Chief of Police to ensure equitable, fair and timely service to the campus community.

## Who is Governed by this Policy

All sworn police officers, as defined by MD Code, Public Safety, § 3-201 in service with the JHPD are governed by this Directive.

## Purpose

The purpose of this policy is to ensure that JHPD officers conduct searches and seizures in strict accordance with the rights secured and protected by the Constitution and laws of the United States, the State of Maryland, in a fair and impartial manner. All Searches shall be conducted with an equal concern for safety, dignity, courtesy, and respect for privacy.

## Definitions

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<b>Campus Area:</b>	<p>Per the enabling statute, MD Code, Education, § 24-1201(c), “campus area means any property that is: (i) owned, leased, or operated by, or under the control of Johns Hopkins University; (ii) located on:</p> <ol style="list-style-type: none"><li>1. The Homewood Campus, meaning the area bounded by West University Parkway and East University Parkway on the north, East 28th Street and West 28th Street on the south, Remington Avenue and Stony Run stream on the west, and North Calvert Street on the east;</li><li>2. The East Baltimore Campus, meaning the area bounded by East Eager Street on the north, East Baltimore Street on the south, North Caroline Street on the west, and North Castle Street on the east; or</li><li>3. The Peabody Campus, meaning the area bounded by West Madison Street and East Madison Street on the north, East Hamilton Street and West Hamilton Street on the south, Cathedral Street on the west, and Saint Paul Street on the east; and (iii) used for educational or institutional purposes.” Campus Area “includes the public property that is immediately adjacent to the campus, including: (i) a sidewalk, a street, or any other thoroughfare; and (ii) a parking facility.”</li></ol>
<b>Body Cavity Search:</b>	<p>Any visual or manual inspection of a person’s mouth, nose, ear canal, anus, genital region, and, in rare instances, organs such as the stomach, with or without physical contact with, or intrusion, into a body cavity.</p>
<b>Cannabis</b>	<p>Per MD Code, Criminal Law, § 5-101, means the plant Cannabis Sativa L. and any part of the plant, including all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration greater than 0.3% on a dry weight basis. Cannabis does not include hemp as defined in § 14-101 of the Agriculture Article.</p>
<b>Cannabis (Amounts) –</b>	<p><i>The following are Cannabis amounts designated by MD Code, Criminal Law, § 5-101 (in order from least to greatest):</i></p> <p style="text-align: center;"><b>Personal Use Amount of Cannabis</b></p> <ul style="list-style-type: none"><li>• 1.5 ounces or less of usable Cannabis</li><li>• 12 grams or less of concentrated Cannabis</li><li>• 750 mg or less of cannabis products containing delta-9-tetrahydrocannabinol</li></ul>

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- One or two cannabis plants
- NOTE: This amount of cannabis **is legal** for any person age 21 or older.

**Civil Use Amount of Cannabis**

- More than 1.5 ounces up to 2.5 ounces of usable cannabis
- More than 12 grams up to 20 grams of concentrated cannabis
- More than 750 mg up to 1,250 mg of cannabis products containing delta-9 tetrahydrocannabinol

**Criminal Amount of Cannabis**

- More than 2.5 ounces of usable Cannabis
- More than 20 grams of concentrated Cannabis
- More than 1,250 mg of Cannabis products containing delta-9-tetrahydrocannabinol

<b>Cross-Gender Search:</b>	Any search of a person conducted by a police officer of a different gender than the person being searched.
<b>Damage:</b>	Any damage, regardless of whether it could be estimated or whether it can or has been repaired.
<b>Deconfliction:</b>	The process of determining when law enforcement personnel are conducting an event near one another at the same time. When certain elements (e.g., time, date or location) are matched between two or more events, a conflict results. There are two types of Deconfliction: Event Deconfliction and Target Deconfliction.
<b>Event Deconfliction:</b>	The process of determining when law enforcement personnel are conducting an event near one another at the same time. Events include law enforcement actions, such as undercover operations, surveillance, and executing search warrants. When certain elements (e.g., time, date, location) are matched between two or more events, a conflict results, and immediate notification is made to the affected agencies or personnel regarding the identified conflict. Event Deconfliction should occur before warrants result in Forcible Entry, which could pose a potential blue-on-blue incident. The goal of Event Deconfliction is to prevent blue-on-blue incidents and maintain officer safety.
<b>Target Deconfliction:</b>	A process designed to prevent “cross-contamination” of cases between multiple agencies to better ensure that these investigations do not interfere with one another. Target Deconfliction is not limited to locations. Target Deconfliction can be submitted for anything involving a unique identifier (e.g., license plate, firearm serial number, currency serial number, person). These types of Deconfliction should be done well in advance of any investigation and before an event (e.g., arrest, surveillance, search warrant, knock-and-talk) occurs.
<b>Dwelling:</b>	Any structure which has the potential to house a person, regardless of if the structure is currently occupied or not. This includes but is

	not limited to traditional Dwellings, such as residential homes, apartments, mobile homes, and hotel or motel rooms. Also included in this definition are garages, sheds, storage units, trailers, tents, houseboats, as well as any other out-buildings or adjoining structures to a residence.
<b>Field Strip Search:</b>	A Strip Search in a location other than an Authorized Police Department facility
<b>Forcible Entry:</b>	Any entry into any building except by permission of an authorized person, including any entry by force, whether any physical damage is incurred to the property.
<b>Knock-and-Announce Warrant:</b>	A warrant authorizing officers to enter certain premises, but requiring that the officer first knock, identify themselves and their intent, and wait for a reasonable amount of time for the occupants to let them into the residence, prior to entering the premises.
<b>No-Knock Warrant:</b>	A warrant authorizing officers to enter certain premises without first knocking and announcing their presence or purpose prior to entering the premises. These are prohibited for JHPD officers.
<b>Member:</b>	All members of the JHPD, including employees, officers, and volunteers, unless the term is otherwise qualified (e.g., member of the public, member of the Baltimore Police Department, etc.).
<b>Officer:</b>	All sworn police officers, at any rank, as defined by MD Code, Public Safety, § 3-201, in service with the JHPD.
<b>Probable Cause:</b>	Where the totality of the circumstances, including all facts and circumstances known to the officer(s) at the time and their relevant training and experience, taken as a whole, would lead a reasonable prudent officer to believe there is a fair probability that (1) for purposes of crime, a particular person has committed or is committing a crime, (2) for purposes of an enforceable civil violation, a particular person is committing or has committed civil violation, (3) for purposes of a traffic offense, that particular vehicle or person has committed or is committing a particular violation of the traffic laws, or, (4) for purposes of a search, either contraband or evidence of a crime will be found in a particular location. Probable cause is an objective legal standard that requires stronger evidence and greater certainty than Reasonable Articulate Suspicion.
<b>Reasonable Articulate Suspicion, (RAS):</b>	A well-founded suspicion based on the totality of the circumstances, including specific, objective, articulable facts, taken together with the officer's training and experience, that would lead a reasonably prudent officer to believe, (1) for purposes of an investigative stop, a person has committed, is committing, or is about to commit a crime or, (2) for purposes of a pat down, a person is armed. RAS is based upon an objective assessment of the facts and circumstances presented to the officer. RAS is an objective legal standard that is less than Probable Cause but more substantial than a hunch or general suspicion.

<b>Sealing Order:</b>	An order signed by a judge that maintains confidential an Affidavit in Support of Search and Seizure Warrant presented in support of a Search and Seizure Warrant for a period not exceeding 30 days.
<b>Search:</b>	An inspection, examination or viewing of persons, places, or items in which a person has a legitimate expectation of privacy. A Search need not be visual; it may include grasping, prying into or manipulating persons or objects (e.g., reaching into a purse or pocket, feeling inside of the trunk of a car; physical manipulation of a duffel bag, etc.).
<b>Search and Seizure Warrant:</b>	A written order, issued by the court, authorizing and directing an officer to search a specified person, premises, vehicle, dwelling or other location in order to seek and recover articles of evidence related to the commission of a crime. A Search and Seizure Warrant consists of a Search and Seizure Warrant Application and an Affidavit in Support of Search and Seizure Warrant.
<b>Strip Search:</b>	The search of a person requiring the removal or rearrangement of some or all clothing to permit the visual inspection of the person's groin/genital area, buttocks, female breasts, or undergarments covering these areas.
	<u>NOTE:</u> The following does not constitute a Strip Search or Body Cavity Search: (a) the removal or rearranging of clothing reasonably required to render medical treatment or assistance; (b) the removal of articles of outer clothing, such as coats, ties, belts, shoes; or (c) a weapons pat-down that includes minor manipulation at or around the waistband of the pants, including the untucking and shaking out of a person's shirt, which may expose the waistband of a person's undergarments only.

## Policy

It is the policy of the JHPD to respect the fundamental privacy rights of all persons. All searches, with or without a warrant, will be conducted in accordance with the requirements and standards of the U.S. Constitution and the Maryland Declaration of Rights, and the requirements of this directive, which go beyond the basic legal requirements of federal and state law. See JHPD Directive #409 Field Interviews, Investigative Stops, & Pat-Downs, for procedures regarding other types of Searches that are not fully covered in this Directive.

## Core Principles

- I. **Legitimate:** JHPD officers will conduct Searches in a fair and impartial manner in compliance with the 4<sup>th</sup> and 14<sup>th</sup> Amendments to the Constitution as well as Maryland law and Declaration of Rights and laws and the policies and procedures of the JHPD and University.
- II. **Non-Discriminatory:** JHPD officers shall not consider, to any extent or degree, the following actual or perceived personal characteristics when exercising



discretion to conduct a Search, except as part of an actual and apparently credible description of a specific suspect in any criminal investigation: age, race, ethnicity, disability, economic status, gender expression, gender identity, immigration status, housing status, national origin, political ideology, sexual orientation, HIV (Human Immunodeficiency Virus) status, religion, veteran status, social status, or familial status.

**III. Constitutional and Just Policing:** All officers shall engage in law enforcement actions (to include investigative stops and detentions, traffic stops, interviewing and/or interrogations, arrests and citations, searches and seizures, uses of force, and asset seizure and forfeiture efforts) in accordance with Federal, State and local law, and applicable JHPD policies and procedures that exceed those minimum requirements in most instances.

**IV. Privacy:** The JHPD recognizes the intrusiveness of Strip Searches and Body Cavity Searches on individual privacy and will use the least intrusive means to achieve its law enforcement purpose. Consequently, the Department prohibits Body Cavity Searches, conducted by officers, and requires that officers consider the importance of individual privacy when determining whether a Strip Search, permitted under the Fourth Amendment, is necessary. Any such searches shall be conducted with due recognition and deference for the human dignity of those being searched and only with proper authority and justification in accordance with this directive.

## Procedures

**I. General** (CALEA (Commission on Accreditation for Law Enforcement Agencies) 1.2.4)

- A. A Search occurs when law enforcement intrudes on a person's reasonable expectation of privacy.
- B. The U.S. Constitution generally requires law enforcement to obtain a Search Warrant prior to conducting a Search. There are, however, *limited* exceptions to the warrant requirement. The most common of these exceptions are:
  - Probable Cause Search of a Vehicle;
  - Exigent Circumstances;
  - Search Incident to Arrest; and
  - Consent Search.
- C. Because case law regarding Searches is constantly changing and subject to interpretation by the courts, officers shall be alert to legal updates sent by the Department regarding Searches.
  - When in doubt as to the existence or applicability of an exception to the Search Warrant requirement, the officer should take the time to obtain a Search Warrant.

**D.** Reasonable Articulate Suspicion and Probable Cause should be founded on specific and objective facts or observations about how a person behaves, what the person is seen or heard doing, and the circumstances or situation regarding the person that is either witnessed or known by the member. Accordingly, Reasonable Articulate Suspicion and Probable Cause must be based on facts or observations about a particular person's actions or the particular circumstances that an officer encounters.

- The physical characteristics of a person, including generic clothing descriptions, are never, by themselves, sufficient. Instead, those characteristics must be combined with other factors, including a specific, non-general description matching the suspect or the observed behaviors of the person. A mere hunch or suspicion is not enough.
- An anonymous tip must be sufficiently detailed and all facts and circumstances must provide indicia of the tip's reliability to give rise to RAS. Mere allegation that a person is carrying a gun is not sufficient. Neither is a very general description based on race and clothing.

**E.** Discoveries made during a warrantless Search under exigent circumstances may be used to establish Probable Cause for a Search Warrant.

**F. Required Actions**

Officers shall strive to conduct Searches courteously and in a way that promotes the dignity of the person Searched.

- Officers shall explain to the person being Searched the reason for the Search and how the Search will be conducted.
- Since all Searches are investigative in nature, officers shall record every Search on their Body-Worn Cameras (BWC). JHPD officers shall attempt to record the activity on which they base their reasonable suspicion on their BWC, to the extent practicable and safe. Consistent with JHPD Directive #433, Body-Worn Camera, officers must activate their BWC at the onset of any call for service or activity that is investigative or enforcement related in nature.
- To minimize property damage and the need for Forcible Entry and were doing so would not place officers at heightened risk, officers shall attempt to lawfully obtain keys, combinations, or access codes when a Search of locked property is anticipated.
- Generally, a person shall only be Searched by an officer of the same gender, unless the person expresses health or safety reasons for a cross-gender search. Absent exigent circumstances, the person's preferences with respect to the gender of the officer conducting a Search will be honored.

- o When exigent circumstances prevent an officer from summoning an officer of the suspect's preferred gender, the officer shall have another officer or a supervisor witness the Search. See JHPD Directive #107, Interactions with LGBTQ+ Individuals, for further guidance.
- o Officers shall carry out Searches with due regard and respect for private property interests and in a manner that minimizes damage. Officers shall leave property as close as reasonably possible to its pre-Search condition.

- **Stops and Searches Based on Cannabis**

- Officers shall not initiate a stop or a Search of a person, a motor vehicle, or a vessel based solely on one or more of the following:
  - o The odor of burnt or unburnt Cannabis;
  - o The possession or suspicion of possession of Cannabis that does not exceed the Personal Use Amount;
  - o Or, the presence of cash or currency in proximity to Cannabis without other indicia of an intent to distribute.
- If an officer is investigating a person solely for driving or attempting to drive a motor vehicle or vessel while impaired by or under the influence of Cannabis in violation of MD Code, Transportation, § 21-902, the officer shall not conduct a search of an area of a motor vehicle that is not:
  - o Readily accessible to the driver or operator of the motor vehicle, such as a trunk;
  - o Reasonably likely to contain evidence relevant to the condition of the driver or operator of the motor vehicle.
- Evidence discovered or obtained in violation of this section, including evidence discovered or obtained with consent, may not be admissible in a trial, a hearing, or any other proceeding.

**G. Reporting:** Any time an officer conducts a warrantless search based upon probable cause or consent, an Incident Report, detailed Supplemental Narrative and Chain of Custody Report will be completed and entered into the Records Management Section (RMS) in accordance with JHPD Directive #202, Written Directive System, by the end of the involved officer's shift. (CALEA 82.2.1.a)

- The narrative portion of the report will be used to document the specific facts, circumstances, and conclusions that support the probable cause or reasonable suspicion for both the detention and the search, including if

the subject of the search was student, staff or faculty of Johns Hopkins, if known.

- o Officers shall use accurate and specific descriptive language and not rely on “boilerplate” or “pasted” language in any reports documenting Searches. Articulation of RAS and Probable Cause shall be specific and clear.
- o In accordance with JHPD Directive #442, Traffic Control & Enforcement, completion of the Reportable Stop Data Entry form in the Delta+ / E-TiX (Electronic Traffic Information Exchange) system is required for all traffic stops and when a search is conducted in conjunction with a traffic stop.

**H. Prohibited Actions:** Officers shall not conduct a Search beyond the scope of the underlying justification for the Search. Any Search conducted beyond that point requires either a Search Warrant or another exception to the Search Warrant requirement.

- Officers shall not use or rely on information known to be materially false, incorrect or stale to justify any type of Search.
- Items or contraband recovered from a Search which was not permissible under this policy shall not be used as justification for the Search.
- Officers shall not Search, seize, or otherwise coerce (implicitly or explicitly) production of recorded images, videos or sounds without obtaining a warrant, unless the person voluntarily provides the recorded material or the below exigency exists:
  - o If the person declines to voluntarily provide recordings but there is Probable Cause to believe that the recording contains critical evidence related to a crime, and if such evidence is in immediate danger of being tampered with, altered, deleted, or destroyed, then an officer may temporarily secure the recording device while a legal subpoena, Search Warrant or other valid court order is obtained.
  - o See JHPD Directive #110, Observation & Recording of Police Services, for full guidance.

## **II. Search and Seizure Warrants**

JHPD may in some infrequent circumstances need to obtain and serve a Search and Seizure Warrant to advance a campus safety objective. JHPD will professionally conduct all searches and seizures and shall comply with all constitutional and statutory provisions when obtaining, executing, and returning Search and Seizure Warrants. Probable Cause is required in order to obtain a Search and Seizure Warrant. This section of the Directive provides additional guidance beyond the legal requirements regarding obtaining a search warrant and techniques to accomplish a thorough and legal search while respecting the

constitutional rights of the person(s) the warrant is being served upon; minimizing the level of intrusion experienced by those who are having their premises searched; providing for the safety for all persons concerned; and establishing a record of the warrant execution process.

- A. Per the Memorandum of Understanding between the Johns Hopkins University (JHU) and the Baltimore Police Department (BPD):
- JHPD shall notify BPD and vice versa, of the execution of Search and Seizure warrants or any barricade situation, hostage situation, or unusual occurrences within the Campus Area;
  - JHPD will ensure that, prior to execution, all of its search and seizure warrants go through the Deconfliction process identified in Section V, below;
  - The BPD retains authority to execute a Search and Seizure Warrant within the Campus Area and shall retain full command and control of any such incident; and
  - The BPD shall be notified and once they arrive will be the lead agency in any unusual situation such as a barricade or hostage situation resulting from the execution or attempted execution of Search and Seizure Warrant within the Campus Area.
- B. All Search and Seizure Warrants must be reviewed by a supervisor before being presented for judicial review. Under no circumstances will any officer submit a Search and Seizure Warrant Application and an Affidavit in Support of Search and Seizure Warrant for judicial review before it is approved by a sergeant or person of higherrank. (CALEA 74.3.1.c)
- NOTE: Both Circuit Court and District Court Judges can issue/authorize in-jurisdiction (location/person to be searched is within Baltimore City) Search and Seizure Warrants, but only a District Court Judge can issue/authorize an out-of-jurisdiction (location/person to be searched is outside of Baltimore City) Search and Seizure Warrant.
- C. The on-duty supervisor must be present during the execution of all Search and Seizure Warrants, and shall remain on-scene until the completion of the search and all JHPD personnel have left the location.
- D. A uniformed officer must be present during the execution of all Search and Seizure Warrants.
- EXCEPTION: A supervisor or officer is not required to be present during the execution of a Search and Seizure Warrant for the collection of forensic evidence only (e.g., blood, DNA (Deoxyribonucleic Acid, electronic signatures and/or files, etc.),

unless a Forcible Entry is needed to obtain the evidence.

- E. All Forcible Entry must be approved by the Chief of Police or their designee, and be limited to situations where failure to immediately enter the dwelling would cause imminent harm to the officers or others.
- F. A Search and Seizure Warrant must be executed within 10 days of the date of issuance, beginning on the date of issuance.
- G. All searches shall be conducted in a thorough and professional manner with minimal damage or disruption to the location searched. To minimize property damage officers shall attempt to lawfully obtain keys, combinations, or access codes when a search of locked property is anticipated.
- H. The Search and Seizure Warrant Application, Affidavit in Support of Search and Seizure Warrant, and its verified inventory, must be returned to the issuing judge or, if absent, to another judge of the same circuit or district, as promptly as possible and no later than 10 days after execution or earlier if stipulated in the Search and Seizure Warrant.
- I. A Search and Seizure Warrant that has not been executed is void and must be returned to the issuing judge within 10 days after its issuance or, in that judge's absence, to another judge of the same circuit or district.
- J. No-Knock warrants are strictly prohibited for JHPD officers. (CALEA 74.3.1.d)
- K. A search may include amassing information about a suspect in a way that intrudes on their expectation of privacy (such as remote tracking of a suspect's movement over an extended time frame). These searches almost always require a warrant and are limited in duration.

### **III. Confidentiality**

- A. Disclosure of the contents of an Affidavit in Support of Search and Seizure Warrant prior to the execution of the warrant may lead to administrative discipline and/or criminal charges against the officer.
- B. Officers shall limit information involved in an investigation to those who are essential to that investigation and need to know that information.

### **IV. Applying for a Search and Seizure Warrant** (CALEA 74.3.1.c)

- A. All Search and Seizure Warrant Applications must comply with the requirements of MD Code, Criminal Procedure, § 1-203 and the Maryland Rules of Criminal Procedure, Rule 4-601.

- B. All Search and Seizure Warrant Applications shall be prepared by an officer with specific training in preparation of Search and Seizure Warrants.
- C. All Search and Seizure Warrant Applications must be reviewed by a supervisor, the Vice President and General Counsel for JHU, or their designee, and deconflicted prior to being submitted to the Court.

**V. De-Confliction** (CALEA 46.2.8)

As soon as a target suspect or address is identified in an investigation, the supervisor of the affiant/investigating officer must notify the Maryland Coordination and Analysis Center (MCAC) at [watch@wb.hidta.org](mailto:watch@wb.hidta.org) to initiate the Deconfliction process and receive an event tracking number. (CALEA 46.2.8.a, 46.2.8.b)

- A. The supervisor of the affiant/investigating officer must provide the information that is requested by MCAC to complete the intake form. Officers are reminded that this notification process is designed to promote officer safety through identifying locations where potential operational conflicts exist. The supervisor of the affiant/investigating officer must ensure the names of contact persons are documented in the Incident Report. (CALEA 46.2.8.c)
- B. Event Deconfliction shall be sought when planned operations may present an officer safety risk should other sworn officers be on-scene or in proximity to the operation.
- C. The supervisor shall seek Event Deconfliction prior to executing a Search and Seizure Warrant on any building, structure, or dwelling that requires Forcible Entry. This requirement includes instances where Forcible Entry would be required to seize forensic or electronic evidence (e.g., cell phone, computer, video or camera system) inside of a building, structure, or Dwelling. If a search warrant could require Forcible Entry into a Dwelling, Event Deconfliction **must** be submitted to MCAC through [watch@wb.hidta.org](mailto:watch@wb.hidta.org) prior to the warrant being executed.
- D. The following common instances do NOT require an Event Deconfliction; however, officers should conduct Target Deconfliction via HIDTA or Case Explorer in order to identify other agencies that may also have an investigative interest in the search and seizure:
  - The search of vehicles held at a JHPD district lot/garage or the Crime Lab Bay;
  - Search and Seizure Warrant for *any* crime scene currently held by uniformed officers;
  - Property held at Central Booking Intake Facility (CBIF) or at the Baltimore Police Department's Evidence Control Unit (ECU);

- Data from vehicle GPS (Global Positioning System);
  - Data from a phone GPS or Cell Site Data;
  - DNA Swab;
  - Video footage stored on cloud-based data storage;
  - Or social media accounts.
    - o EXCEPTION: If any of the above forensic evidence requires Forcible Entry to recover, officers shall seek Event Deconfliction prior to executing the search and seizure warrant.
- E. Upon receiving an event tracking number from MCAC, obtain a JHPD tracking number with the Search and Seizure Warrant Tracker application. This number is used to track the service and return of the Search and Seizure Warrant to the issuing judge.
- F. No incident type is exempt from the Event Deconfliction process when the warrant sought meets the required Event Deconfliction criteria as described above. (46.2.8.c)

## **V. Search & Seizure Warrant Application & Risk Assessment**

Whenever it becomes necessary in the investigation, and there is sufficient Probable Cause, officers shall apply for a Search and Seizure Warrant from a judge of the Circuit Court of Baltimore City or the District Court of Maryland by completing a Search and Seizure Warrant Application, including an Affidavit in Support of Search and Seizure Warrant.

- A. A Search and Seizure Warrant Application must include:
- Name and title of the applicant;
  - A statement that there is probable cause to believe that items subject to seizure under Maryland law may be found in or upon a designated or described place, vehicle or person;
  - An accurate, complete, and detailed description of the offense, the person or place to be searched, the scope and time of the search (if known) and an accurate, detailed description of the person or things intended to be seized.
  - If possible, for buildings, the officer shall obtain a photograph of the exterior of the building to be searched and attach it as an exhibit to the Affidavit in Support of Search and Seizure Warrant.
  - One (1) or more Affidavits in Support of Search and Seizure Warrant specifically setting forth the facts and circumstances establishing Probable Cause to believe that items are in the places or in the possession



of the individual(s) to be searched; and

- o A request that the court issue a Search and Seizure Warrant directing a search for and the seizure of the items in question.
- B. Officers shall complete a Search & Seizure Warrant Risk Assessment Form for searches and seizures of buildings, structures, or Dwellings to determine if Forceable Entry may be required. If the risk assessment determines that Forcible Entry may be necessary, mutual aid from BPD in the execution of the warrant should be requested, and secured.
- C. Searches and seizures of secured scenes and non-Dwelling items are exempt from the Risk Assessment requirement, provided Forceable Entry is not necessary.

## **VI. Affidavit in Support of Search and Seizure Warrant**

- A. The affiant shall provide the judge with a truthful and complete Affidavit in Support of Search and Seizure Warrant, signed under the penalty of perjury, which details the evidence to establish Probable Cause to search.
- B. The Affidavit in support of the Search and Seizure Warrant must contain an accurate and clear description of the reasons for the request for the search (i.e., Probable Cause to Search). The facts and circumstances provided must be sufficient for the issuing judge to conclude that there is a reasonable probability to believe that the specific items subject to seizure are at the location specified.
- C. The affiant officer shall include in the Affidavit in Support of Search and Seizure Warrant any information or material evidence – known at the time the affidavit was presented – including any exculpatory evidence, i.e., information or evidence that would contradict a finding of Probable Cause. Examples of this type of information are:
  - Material facts impacting the credibility of an informant or witness.
  - The bias of an informant or witness.
  - Witnesses' observations of the crime that are contrary to the Affidavit in Support of Search and Seizure Warrant.
  - Material evidence that would significantly undermine informants,' witnesses' and/or victims' identification of suspects.
  - Material evidence that would undermine informants,' witnesses' and/or victims' statements of events.
  - Material evidence that witnesses have identified persons other than the suspect as the perpetrator of the crime.

- Material evidence that a victim or witness has advised the suspect is not the perpetrator of the crime including that the victim or witness has seen a line-up and advised the suspect is not the perpetrator.
  - The existence of material evidence pointing to another perpetrator.
  - Material evidence that the suspect was not at the scene of the crime.
  - The existence of material physical evidence or scientific testing that would contradict statements of facts in the Search and Seizure Warrant Application.
- D.** The affiant officer will be held strictly accountable for the content of the Search and Seizure Warrant Applications. Use only the designated forms referred to within this policy.
- E.** Upon completion of the required review of Search and Seizure Warrant Applications as required by Section IV (C) of this Directive and approval by the on-duty supervisor, officers shall submit the Search and Seizure Warrant Application, including the Search and Seizure Warrant Applications, to an available Circuit or District Court Judge (during business hours). During non-business hours, weekends and holidays, contact the Court Commissioner at (410) 767-5774, 500 N. Calvert Street, who will notify the duty judge.
- F.** Officers shall ensure the following copies of the Search and Seizure Warrant Application are generated:
- **First Copy:** Given to the issuing judge
  - **Second Copy:** Given to the owner/agent in charge of the location
  - **Third Copy:** Case folder
  - **Fourth Copy:** State's Attorney's copy
  - **Fifth Copy:** Affiant copy
  - **Original Warrant:** Return to the issuing judge upon execution/ expiration
  - **Sealing Order:** Same copying sequence as warrant, when applicable

## **VII. Supervisory Responsibilities**

- A.** Supervisors shall thoroughly review each request for a Search and Seizure Warrant, including each Search and Seizure Warrant Application and Affidavit in Support of Search and Seizure Warrant, before it is filed by an officer, for:
- Appropriateness;
  - Legality; and
  - Conformance with JHPD regulations and the MOU (Memorandum of Understanding) with BPD.

- B.** The supervisor shall assess the information contained in the Search and Seizure Warrant Application and supporting document for authenticity, including:
- Use of repetitive narratives, "boilerplate" or "pasted" language;
  - Repetitious language used by the officer;
  - Ensuring the information is consistent and detailed;
  - Probable Cause to Search has been established within the document;
  - The reliability of information used as a basis for the warrant;
  - Procedures used to identify the target location.
- C.** The supervisor shall take appropriate action to address violations or deficiencies, including recommending non-disciplinary corrective action for the involved officer.
- D.** The supervisor shall complete the Search and Seizure Warrant Risk Assessment prior to an officer obtaining a warrant.

## **VIII. Preparing to Execute a Search & Seizure Warrant**

The affiant/investigating officer will complete an execution plan, identifying and documenting the officer in charge of executing the search warrant (Team Leader); and

- A.** Present the warrant to the supervisor for review and pre-raid preparation.
- B.** Identify the target location.
- C.** Provide a sketch/photograph of the target location, as well as any other intelligence. Examples of relevant intelligence to provide include the presence and/or location of known risk factors (e.g., weapons, dogs, locked gates, or cohabitants), whether there is known gang affiliation or violent criminal history, police or military experience, or a known history of drug or alcohol abuse. This shall be useful in assisting with the thorough completion of the Search and Seizure Warrant Risk Assessment.
- In addition, officers should include information regarding safety factors to consider for known possible inhabitants of the location to be searched. This includes the possible presence of infants, small children, elderly or disabled persons, persons with medical conditions, mental illness, or other physical or developmental disabilities. Ensure a plan is put in place to prioritize and ensure the safety of such vulnerable individuals.
  - NOTE: Officers shall take into consideration the possibility that animals may be present, and, whenever possible, ensure a plan is put in place and equipment is obtained to properly manage animals without using deadly/lethal force.

- D.** Each officer involved in executing the Search and Seizure Warrant shall review the execution plan created by the supervisor, which shall detail each team officer's duties (described below under **Supervisory Responsibilities**).
- Each officer must learn their duties, review the location, and understand any other pertinent information in the plan prior to arrival at the site.
  - All officers must adhere to the tactical plan throughout the entire warrant execution process.
- E.** Officers shall obtain all necessary equipment prior to execution of the Search and Seizure Warrant. This may include, but is not limited to:
- Ram
  - Ballistic Shield
  - Dog Pole
  - Fire Extinguisher
  - Raid Kit
  - Camera
    - o NOTE: The use of flash-bang or stun devices by JHPD officers is prohibited during the execution of Search and Seizure Warrants.
- F.** Officers shall conduct pre-raid surveillance of at least one square block around the target location. Special attention should be made to locate unmarked vehicles and plain-clothes officers who may be at the target location or in the immediate area.
- G.** If during pre-execution planning it is determined that Forcible Entry may be necessary, officers should seek supervisors' approval to request mutual aid in the execution of the Search and Seizure Warrant from BPD.
- H.** **Supervisory Responsibilities:** Supervisors will prepare a complete execution plan detailing all officers' duties. The plan must also include:
- Each officer to be involved and the duties of each officer.
  - Identify the assistance secured from BPD during the execution of any high-risk Search and Seizure Warrant.
  - Plan for approach (e.g., how will the building be covered, who will be where, etc.)
  - A proposed hospital route in case officers or civilians are injured during the execution of the Search and Seizure Warrant.
  - Once the plan is completed, the supervisor shall conduct an execution meeting with all officers participating in the execution of the Search and Seizure Warrant. All Search and Seizure Warrant execution meetings

must be attended and supervised by a participating supervisor prior to execution. An execution meeting **will not** be conducted in the field unless exigent circumstances preclude all participating officers from meeting at a JHPD facility. During the execution meeting, the supervisor will assign officers to the following duties:

- o Entry Team.
- o Arrest Team.
- o Search/Recovery of Evidence Team.
- o Emergency Withdraw Team (ensures police safety, once the command is given, if an immediate withdraw of officers from the premises becomes necessary).

- NOTE: Supervisors may assign one or more non-supervisory officer the role of searching, collecting, and/or recording. In addition, officers assigned to the Search/Recovery Team may also be assigned duties with the Entry and Arrest Teams.

## **IX. Executing a Search and Seizure Warrant**

- A. Officers shall activate their BWC prior to executing a warrant, in accordance with the MD Code, Criminal Procedure, § 1-203 and JHPD Directive #433, Body-Worn Cameras.
- B. Officers shall continually monitor and assess the level of threat present, up to the knock. If additional risk factors arise, notify the on-duty supervisor immediately for instructions prior to execution.
- C. Officers may only execute a Warrant between 0800 and 1900 hours, unless specific, articulable exigent circumstances exist that would preclude serving the warrant during that time frame and approved by the Chief of Police.
- D. All officers participating in the entry shall be visually, clearly identifiable as police officers, including wearing a uniform, badge, and tag bearing their name in accordance with JHPD Directive #208, Uniforms & Equipment.
- E. Officers shall knock forcefully on the door and in a loud voice, identifying themselves as a police officer. State that you have a Search and Seizure Warrant and demand that the door be opened.
- F. If a response is heard, officers shall identify themselves again as police, state that you have a Search and Seizure Warrant and request/demand that the door be opened.
- G. EXCEPTION: Immediate entry may only be initiated if the facts and circumstances establish Probable Cause to reasonably believe that there is an imminent threat of serious bodily harm to officers or others.

- If there is no imminent threat of serious bodily harm to the officer or others, and the occupants are refusing to open the door, the officers should set up a perimeter and notify a supervisor to determine whether Forcible Entry is appropriate, and if so, BPD should be notified, or whether execution of the warrant should be deferred to another time.
- Any approval for Forcible Entry must come from the Chief of Police, or their designee, and a supervisor must be present when Forcible Entry is made. In cases where immediate entry is made without approval, officers shall provide a full and complete explanation as soon as practical, and in all cases where Forcible Entry is made:
  - o Any Forcible Entry by the JHPD shall be reported in the narrative portion of the Incident/Arrest Report and include all facts related to the imminent threat of serious bodily harm to officers or others.
  - o Photographs of any damage as the result of a forcible entry shall be taken and included with the report.
  - o No officer shall make any statement regarding liability for repairs due to any Forcible Entry. Such determination of subsequent repairs, if deemed necessary, shall be handled through the Office of the Chief of Police, in consultation with the Office of Vice President and General Counsel for JHU.

**H.** Once entry has been gained, officers shall immediately and continually identify themselves by stating, “Police, Search Warrant,” in a loud voice upon entering any room, traversing any hallway or flight of stairs, and upon contact with any person inside of the location while conducting a protective sweep for suspects.

- o NOTE: Officers are **not permitted** by law to search persons found inside of a target location during the execution of a Search and Seizure Warrant unless those persons are specifically named in the warrant. However, officers may require those persons to remain on-scene for a reasonable period of time until the service of the warrant is complete. See JHPD Directive #408, Field Interviews, Investigative Stops, and Weapons Pat-Downs, #411, Custody & Transport, for further guidance on when it is proper to conduct specific law enforcement actions during this procedure, including Weapons Pat-Downs.
- o EXCEPTION: While executing a Search and Seizure Warrant in a public place, officers may detain people present at the location, only if there is legal justification for an Investigative Stop specific to each person. See JHPD Directive #408, Field Interviews, Investigative Stops, and Weapons Pat-Downs.

- I. The officer designated to take photographs shall take before and after photographs of the location to be searched, points of entry, locations of property recovered, and any property that was damaged as a result of the execution of the warrant. All items seized should be photographed prior to being recovered. (CALEA 83.2.2)
- J. Officers shall show a signed copy of the Search and Seizure Warrant, complete with the judge's signature, to the person searched and/or to the owner/agent in charge of the location, unless the warrant is sealed.
- K. Officers shall conduct the search one room or area at a time. In executing the search, officers may not exceed the scope of the warrant.
- L. Officers should remain respectful of the property being searched, minimizing disarray, disruption, or property damage to that which is necessary to successfully execute the warrant in alignment with its scope.
- M. Officers shall use numbers (beginning with "1") to indicate evidence recovery locations. Officers shall take photographs of evidence/property with the number visible in the photograph.
- N. Officers shall render all recovered dangerous weapons as safe, and all weapons should be photographed prior to being rendered safe.
- O. Officers shall prepare a post Search and Seizure Warrant execution diagram of the inside of the location searched. The diagram shall include the locations and types of rooms, stairwells, windows, doors, and any other noteworthy structural feature which may aid other search parties in the future.
- P. Officers shall complete the "Return" (list of property taken) by describing each item of property seized and signing in the space provided on the back of the "Return" in the presence of the owner/agent of the location. If the owner/agent is not present, complete the "return" in the presence of a supervisor.
- Q. Officers shall leave an unsigned copy of the Search and Seizure Warrant, with completed "return," with:
- The person from whom the property was seized, or
  - The owner/agent of the location from which the property was seized.
- R. If the owner/agent is not present, leave a copy of the warrant in a conspicuous place at the location searched.
- **Never leave a copy of a warrant with the judge's signature.**
- S. An Affidavit in Support of Search and Seizure Warrant for criminal activity that has been sealed by a judge shall not be left on the premises or with the person searched.

- A copy of the Sealing Order shall be left with the Search and Seizure Warrant Application in lieu of the Affidavit in Support of Search and Seizure Warrant.
- T. Additionally, Officers shall complete a Property Seizure Receipt for each presumptive owner of property that was seized and provide a copy of the Property Seizure Receipt to the presumptive property owner.
- U. Officers shall update the Search & Seizure Warrant Tracker application upon execution, expiration and return of a Search and Seizure Warrant.

**W. Supervisory Responsibilities**

A supervisor must be present during the execution of all Search and Seizure Warrants and shall remain on-scene until the completion of the search and all JHPD personnel have left the location. The supervisor shall:

- Monitor the continual reassessment of threat factors before entry. If additional risk factors arise prior to entry, determine the best way to proceed based on the additional risk factors (e.g., may decide that a high-risk entry or Forcible Entry is required and the current team should not conduct the warrant service as planned).
- Note: Absent exigent circumstances, any Forcible Entry requires the assistance of BPD. If at any time a supervisor determines that a Forcible Entry may be needed, they shall coordinate with BPD, and relinquish control of the service of the warrant to BPD.
- Ensure additional supervisors are present when two or more Search and Seizure Warrants are scheduled for simultaneous or consecutive execution.
- Ensure sufficient officers are positioned outside the location to cover all potential escape routes.
- Supervise the execution of the Search and Seizure Warrant, ensuring the professional conduct of the search at the location described in the warrant, to include the utilization of necessary support personnel.
- Ensure all seized property is properly inventoried and submitted to the BPD Evidence Control Unit. See JHPD Directive #469, Property and Evidence Management.
  - EXCEPTION: A supervisor is not required to be present during the execution of a Search and Seizure Warrant for the collection of forensic evidence only (e.g., blood, DNA, electronic signatures and/or files, etc.), unless a Forcible Entry is needed to obtain the evidence.



## **X. Reporting**

- A.** The Supervisor leading the execution of the warrant shall complete an Incident Report including details of the following facts:
- The incident is formally identified as a Search and Seizure Warrant action.
  - Attempts to gain entry by knocking.
  - The name of the officer who knocked on the door.
  - Reason(s) for Forced Entry, if applicable.
  - Description of any use of a firearm or weapon (see JHPD Directive #402, Use of Force, for further documentation guidance in these instances).
  - Points of forced entry, areas searched and interior description.
  - The location(s) where evidence was first found and seized.
  - The name of the officer who first found and seized the evidence.
  - The number of photographs taken.
  - Date, time and name of the judge who signed the warrant.
  - Identify the exact location of persons present upon entry.
  - If anyone not the target of the warrant was detained, create an Incident Report for them, and document in the Narrative the reasons those persons were detained and the duration of the detention(s).
  - Identity of the officers that participated in the execution of the warrant to include the identity of the officers.
  - Name of the person with whom the warrant and inventory were left with, or location where the warrant was left if no one was present.
  - All necessary information in order to identify all BWC footage of the incident or attach links to BWC footage, if possible.
- B.** Prepare and maintain a case folder including a copy of the warrant, sketch of the location, photographs taken, and all relative reporting.
- C.** Return the Search and Seizure Warrant, along with its verified inventory, to the issuing judge or, if absent, to another judge of the same circuit or district, within 10 days after execution of the warrant (or earlier if stipulated in the warrant).
- D.** Notify your supervisor that the Search and Seizure Warrant was returned, and prepare a supplemental report documenting the return.

#### **E. Supervisory Responsibilities:**

- Review the completed Incident Reports for legibility, completeness and accuracy.
  - o If any deficiencies are detected, return to the reporting officers for proper completion.
  - o Indicate approval by signing your full signature.
- Review verified inventory to be returned to the court.
- Ensure that the Search and Seizure Warrant, along with its verified inventory, is returned to the issuing judge or, if absent, to another judge of the same circuit or district, within 10 days after execution (earlier if stipulated in the warrant).
- Ensure that a Search and Seizure Warrant that has not been executed be returned to the issuing judge within 10 days after its issuance or, in that judge's absence, to another judge of the same circuit or district.
- Ensure that the Watch Center has been notified whether or not the warrant was served, the date of warrant execution, and the date the warrant was returned to the court.

### **XI. Tracking Search & Seizure Warrants**

The Deputy Chief or their designee shall be responsible for the tracking of each search and seizure warrant obtained by JHPD personnel, this includes the maintenance and reporting of information in accordance with MD Code, Public Safety § 3-525(b), and:

- A. Tracking whether each Search and Seizure Warrant was served or unserved, the date of each warrant execution, and the date of warrant return to the court.
- B. Maintaining, in a central location, a compliance log listing:
  - Each Search and Seizure Warrant.
  - The case file where a copy of such Search and Seizure Warrant is maintained.
  - The name of the officer who applied for the Search and Seizure Warrant.
  - The supervisor(s) who reviewed and approved or disapproved the Search and Seizure Warrant Application.
  - And, documentation if disapproved, including why it was disapproved and what remedial actions, if any, were taken by the supervisor (disciplinary or training).
- C. The Deputy Chief of Police shall Maintain and report the following data on an annual basis to the Maryland Police Training and Standards Commission (MPTSC):

- The number of times a No-Knock Warrant was executed in the previous year. As a reminder, No-Knock warrants are not permitted for JHPD, so this number should always be zero (0).
- The zip code of the location where each No-Knock Warrant was executed, if applicable.
- The number of times an officer made Forcible Entry into a building, apartment, or Dwelling specified in the Search and Seizure Warrant.
- The number of times BPD SWAT (Special Weapons and Tactics) was deployed to execute a Search and Seizure Warrant.
- The number of arrests made during the execution of a Search and Seizure Warrant.
- The number of times property was seized during the execution of a Search and Seizure Warrant.
- The number of times an officer discharged their weapon during the execution of a Search and Seizure Warrant.
- The number of times a person or domestic animal was injured or killed during the execution of a Search and Seizure Warrant, separated by whether the person or animal was injured or killed by a law enforcement officer.
- For each Search and Seizure Warrant executed, the number of days from its issuance until the execution of the Search and Seizure Warrant.

## **XII. Warrantless Searches**

- A.** As noted above, federal and state law generally requires law enforcement to obtain a Search and Seizure Warrant prior to conducting a Search. There are, however, *limited* exceptions to the warrant requirement. The most common of these exceptions are:
- Probable Cause Search of a Vehicle;
  - Exigent Circumstances;
  - Search Incident to Arrest;
  - And Consent Search.
- B.** This section of the Directive explains the common exceptions to the warrant requirement and establishes the JHPD guidelines, which go beyond the basic legal requirements, that must be followed when conducting warrantless Searches, pursuant to the exceptions to the warrant requirement. If an officer has any doubt as to whether an exception applies, they should seek a warrant.

### **XIII. Probable Cause Searches of Vehicles** (CALEA 1.2.4)

Since operable vehicles are capable of movement, officers may conduct a warrantless Search if there is Probable Cause to believe the vehicle contains evidence of a crime or contraband. Prior to conducting a warrantless Search of a movable vehicle, officers shall:

- A. When practical, first seek to obtain consent to the Search prior to Searching a person or a movable vehicle without a warrant. See JHPD Directive #408, Field Interviews, Investigative Stops & Pat- Downs.
- B. Officers must have Probable Cause to Search in order to conduct a warrantless Search of a vehicle.
  - If an officer has Probable Cause to Search a vehicle, the member may Search anywhere in the vehicle where the evidence or contraband sought may reasonably be found.
  - This may include containers within the vehicle regardless of the ownership of those containers.
- C. NOTE: Officers are encouraged to obtain Search and Seizure Warrant where practical prior to conducting a Search that will likely cause damage to a vehicle.
- D. NOTE: Probable Cause to conduct a warrantless search of a vehicle does **not** provide Probable Cause for an officer to conduct a warrantless search of the occupants of the vehicle. The legal justification to search the occupants of the vehicle has to be particularized to the individual being Searched and would require a warrant or an applicable exception to the warrant requirement, such as a custodial search incident to arrest or consent.
- E. PROHIBITED ACTION: Officers shall not conduct a warrantless Search of an unoccupied vehicle parked and located in a driveway, on a street, in a parking garage or within the curtilage of a home (area immediately surrounding a home). Instead, officers should secure the vehicle at the scene and obtain a Search and Seizure Warrant.

### **XIV. Exigent Circumstances** (CALEA 1.2.4)

- A. A Search may be justified by exigent circumstances where there is:
  - Probable Cause, AND
  - Substantial risk that waiting for a warrant would result in:
    - o Harm to a person,
    - o Destruction of evidence, or
    - o Escape of someone subject to arrest.

**B.** Entry into Residences and Non-Public Structures

Warrantless arrests in the home are generally disfavored as physical entry of the private space is the chief evil against which the wording of the Fourth Amendment is directed to guard. The United States Supreme Court has long adhered to the view that the warrant procedure minimizes the danger of needless intrusions. Therefore, absent exigent circumstances, officers must obtain a warrant before entering into a private residence or non-public building where there is a reasonable expectation of privacy to make an arrest or conduct a Search.

**C.** There are three types of exigent circumstances that would justify a warrantless entry into a residence or non-public building where there is a reasonable expectation of privacy:

- **Hot Pursuit of Fleeing Felons:** Officers may enter a residence or non-public building where there is a reasonable expectation of privacy if they are in hot pursuit of a fleeing felony suspect. Officers are not allowed to make a warrantless hot pursuit entry when there is only probable cause of a misdemeanor or a minor offense. Examples of misdemeanors include DUI, traffic offenses, curfew violations, citation offenses and non-arrestable violations.
- **Destruction of Evidence:** The law allows entry into a residence or non-public building where there is a reasonable expectation of privacy if the officers have a reasonable belief that evidence of a felony is about to be removed or destroyed. If entry is made to prevent the destruction of evidence, except in exceptional circumstances such as danger to officers or the public, officers shall not seize the evidence or contraband. Officers shall secure the premises and the evidence, freeze the scene to include all occupants while allowing for occupants to leave if they wish, and await the arrival of a Search and Seizure Warrant.
- **Protection of the Police or the Public:** When officers have reasonable grounds to believe there is an immediate need to ensure their safety and the safety of others, they may make a warrantless entry into a residence or non-public building where there is a reasonable expectation of privacy to guarantee the safety of themselves and others. Prior to the entry the officers must:
  - o Have a reasonable belief that there is an immediate need to protect the lives or safety of themselves or the public;
  - o Conduct the search absent a motivation or desire to discover evidence or make an arrest; and
  - o Have a reasonable basis, approaching Probable Cause, to associate the emergency with the place to be searched.

**D.** A warrantless Search conducted due to exigent circumstances is valid only as long as the exigent circumstances last. When the exigency has ended, any further

Search must be justified by a warrant or another exception to the warrant requirement.

## **XV. Searches Incident to Arrest** (CALEA 1.2.4)

- A. An officer must have Probable Cause to arrest, the authority to arrest, and the intent to arrest before performing a custodial Search incident to arrest.
- B. A Search incident to arrest shall include custodial search of arrestee for weapons and Search of the individual's pockets. It may also include Search of any articles of property found on the person, and the minor manipulation of clothing that does not expose a person's groin/genital area, buttocks, female breasts, or more than the waistband or upper portions of the undergarments.
- C. The areas included in this Search are the person being arrested and the area in their immediate control.
- NOTE: Once the person has been removed from the area and has been rendered incapable of gaining "immediate control" of items in that area, a warrantless Search incident to arrest may no longer be conducted of that area.
    - o Residence: When a person is arrested in a residence, officers may only search the person's area of immediate control where the arrest occurred.
    - o Personal Items: Officers may only search personal items such as wallets, backpacks, or other bags if the person had them in his or her actual and exclusive possession either at or immediately preceding the time of his or her arrest.
    - o Electronic Devices: Absent some other, exception such as exigent circumstances, officers may not search digital information on a cell phone or other electronic devices without a Search and Seizure Warrant.
- D. If a person is an occupant or was recently an occupant of a vehicle, a limited Search of the passenger compartment of the vehicle (including glove box, center console or containers therein) may be conducted, if:
- The person is unsecured and within reaching distance of the passenger compartment at the time of the Search, or
  - There is RAS that a Search of the passenger compartment will uncover evidence related to the crime for which the occupant was arrested.
- E. For additional guidance related to search incident to arrest, Officers shall refer to JHPD Directives #423, Arrest Warrants, Attachments & Criminal Process, and #424, Arrests & Alternatives to Arrest.

## **XVI. Consent Searches** (CALEA 1.2.4)

- A.** To request to conduct a consent Search of a person or property for contraband or other evidence of a crime, officers must have (1) RAS that a crime has been committed, and (2) RAS that the person is involved in the crime or possesses evidence of the crime or the place to be Searched contains evidence of the crime.
- B.** Prior to a consent Search, the officer shall provide a Permission to Search Form to the person whose person or property they wish to Search and shall explain the purpose of the form. The officer shall affirmatively explain that the person has a right to refuse, limit, and revoke consent at any time that the person will not be punished or detained longer if they refuse.
- If the person requests further explanation of their rights or if it is apparent that the person giving consent has difficulty reading or understanding their rights, the officer shall explain until the person acknowledges their full understanding of the consent. If applicable, refer to JHPD Directives #434, Language Access Services, and #435, Communicating with Deaf or Hard of Hearing Persons.
  - If the person gives verbal consent to Search but refuses to sign the form, the officer may proceed with the Search but **MUST** document the person's verbal consent and refusal to sign the Permission to Search form.
    - Officers shall record verbal consent on BWC.
  - Officers shall include on the back of the Permission to Search Form:
    - The events giving rise to RAS for a search.
    - How consent was obtained (i.e., verbally or in writing).
    - How the search was conducted.
    - The location of any contraband or evidence that was discovered, and the name of the member who found and seized the evidence.
    - If anything was seized during the search.
    - Whether the search resulted in an arrest.
  - NOTE: Alternatively, officers may attach a copy of the incident report to the Permission to Search Form so long as it contains the above information.
- C.** Consent can only be given by a person that has the authority to give consent to Search the property and has the capacity to voluntarily consent. Officers must be able to articulate in writing the facts that support their belief that the person that consented to the Search had the authority and capacity to voluntarily consent to the Search.

- D.** If two or more people with equal apparent authority over the property are present and disagree about permission to Search, the consent Search shall not be conducted. If any doubt exists as to authority, the officer should not conduct the consent search and should obtain a Search and Seizure Warrant.
- E.** The scope of the Search must be established and may be limited in any way the person wishes. If the Search exceeds the authorized scope, it must be justified by another exception, or Search and Seizure Warrant, or it will be unlawful.
- F.** Officers must ensure that an individual is consenting to the Search voluntarily and has the capacity to consent. When determining whether this consent is voluntary and whether they have the capacity to knowingly consent to a Search, Officers shall consider the age, intelligence, education, and authority of the person providing consent. If the officer has any doubt, they should not conduct a consent Search and should obtain a Search and Seizure Warrant.
- G.** The person providing consent may stop the Search at any point and must be able to communicate their request to stop the Search.
- H.** Consent may be withdrawn at any time by any person with apparent authority over the property. If consent is withdrawn, and the consent Search has begun, the officer shall:
- Stop the Search unless another exception to the Search Warrant requirement applies or a Search and Seizure Warrant has been obtained.
  - Refrain from any threats or other forms of coercion to obtain or induce the person not to revoke consent; and
  - The officer may retain custody of evidence or contraband lawfully seized prior to revocation of consent, even if property return is requested by the person withdrawing their consent to Search.
- I.** For consent searches of Youth, Officers shall follow JHPD Directive #426, Interactions with Youth.
- J.** Prohibited Action: Officers may not ask an operator of a motor vehicle for consent to search a motor vehicle or its contents if that vehicle is stopped solely for motor vehicle violations.
- Officers may not conduct a Search until the person has signed the Permission to Search form unless verbal consent is recorded as described above.
  - Officers shall not use a person's refusal to give consent to Search as a factor in establishing RAS or Probable Cause.
  - Officers shall not tell a person that refusal to provide consent may lead to adverse consequences, such as arrest or warrantless seizure of their property.



## **XVII. Strip Searches & Body-Cavity Searches** (CALEA 1.2.8.a)

The need to conduct a Strip Search or Body-Cavity Search will be extremely rare. However, officers must still understand the privacy interests at stake in conducting both Strip Searches and Body Cavity Searches. Officers must also understand that Body Cavity Searches (other than the visual inspection of the mouth, nose and ears) are prohibited by this Directive. In addition, Strip Searches are only authorized in the limited circumstances detailed in the remainder of this section, which is intended to always balance the interests of public safety with the deeply personal, constitutional privacy interests of every person in JHPD custody.

- A.** To conduct a Strip Search, an officer must obtain the approval of a JHPD commander, at the rank of Captain or above.
- B.** A JHPD commander's approval of a Strip Search must be founded on Probable Cause to Search, i.e., specific, and objective facts or observations about how a person behaves, what the person is seen or heard doing, and the circumstances or situation regarding the person that is either witnessed or known by the officer. Accordingly, Probable Cause to Search must be based on facts or observations about a particular person's actions or the particular circumstances that an officer encounters. The physical characteristics of a person are never, by themselves, sufficient. Instead, those characteristics must be combined with other factors, including a specific, non-general description matching the suspect or the observed behaviors of the person. A mere hunch or suspicion is not enough.
- C.** In addition, in order to conduct a Strip Search of a person, the officer must have Probable Cause that a person is concealing (1) contraband that, if not recovered, could create an immediate medical emergency for the person, or (2) a dangerous weapon, in the area to be searched.
  - Examples of contraband that could create an immediate medical emergency include fentanyl, heroin and cocaine and other narcotics that if ingested could lead to an overdose.
  - Examples of a dangerous weapon includes knives and other edged weapons and firearms.
- D.** A Strip Search is much more invasive than a search incident to arrest. A search incident to arrest, which is conducted at the time of custodial arrest, shall include a weapons pat-down and search of all pockets, and to include a search of any articles of property found on the person, and manipulation of clothing that does not permit the visual inspection of the person's groin/genital area, buttocks, female breasts, or undergarments (with the exception of the waistband).
- E.** Prior to Conducting a Strip Search: As noted above, permission to conduct a Strip Search must be granted by a JHPD commander at the rank of Captain or above.

- In exigent circumstances, such as protecting the health and safety of a person in custody that has ingested a suspected lethal amount of controlled substance; the notification of a qualifying police commander may not be immediately practical, and the officer shall notify the commander as soon as practical
- F.** Strip Searches may only be performed on a person in police custody and subject to arrest.
- G.** Less intrusive means, such as Weapons Pat-Downs, metal detectors (where available), and clothing searches, will be performed instead of a Strip Search wherever possible.
- H.** If the person can be safely transported to an intake facility, the officer should immediately transport the person to an intake facility and provide that information to the processing officer for appropriate action, in lieu of conducting a Strip Search.
- I.** If the person cannot be safely transported to an intake facility, in seeking approval, officers shall provide the JHPD commander the particularized factual basis for Probable Cause, including identifying the nature of the item the person is concealing (e.g., firearm, edged weapon), and the reason why the arrestee cannot be transported to an intake facility, and the officer shall record the statement on the Officer's BWC. Officers will document the commander who provided approval in the Incident Report.
- J.** Prior to conducting the Strip Search, the officer will explain to the person why they are being Strip Searched, inform the person of their Miranda rights, and give the person the opportunity to voluntarily produce the suspected item. The person will be allowed to voluntarily produce the item only if the officer and ranking supervisor, lieutenant or above, believe that the item can be produced without compromising officer safety or risking destruction of evidence.
- Under no circumstances may an officer tell a person that they will conduct a Strip Search unless they already have Probable Cause to conduct such a Strip Search, have received permission from a JHPD commander, and have the actual intent to conduct it.
- K.** Prior to beginning the Strip Search, officers shall advise the person to be Strip Searched that they are being recorded and their BWC is activated. Then, officers shall follow these steps:
- Ask the person to be searched if they want the search to be recorded on the BWC, or if the person wishes the BWC to be deactivated during the search. The wishes of the person being searched will be followed by the primary officer and all assisting or witnessing officers.
  - If the person wishes the BWC to be deactivated:

- o Memorialize this request on the BWC, deactivate the BWC, and then conduct the Strip Search.
  - o Once the Strip Search is complete, activate the BWC immediately to record the rest of the encounter.
  - o If permitted to remain active, the BWC shall record the events as it normally would. The BWC shall not be pointed or manipulated to specifically capture the private areas of the person being searched
- L.** Conducting a Strip Search: Officers shall adhere to the following requirements when conducting a Strip Searches:
- All Strip Searches must be conducted in a setting that ensures the privacy of the person searched, away from public view, under sanitary conditions and in a professional, dignified manner.
  - All Strip Searches must be conducted by an officer and witnessed by a second officer. Both officers must be of the same sex as the person being searched, in accordance with the preference of the person being searched. (CALEA 1.2.8.b)
  - A Strip Search for anything other than a deadly weapon must be conducted in a private location at a JHPD intake or medical facility.
  - All Officers involved in a Strip Search shall take reasonable steps to minimize the potential embarrassment or discomfort to the person being searched.
- M.** Strip Searches shall be conducted by the fewest number of officers necessary, and not more than two (2).
- N.** A Field Strip Search can only be conducted in the limited circumstances where (1) the officer has Probable Cause to believe that the person is concealing a deadly weapon, (2) the officer reasonably believes that the person is an imminent threat to themselves or others, and (3) the officer reasonably believes that the person cannot be transported safely to conduct the Strip Search at a JHPD facility, medical facility or intake facility.
- O.** A Field Strip Search for anything other than a deadly weapon is not permitted.
- P.** Officers must obtain express approval for any Field Strip Search from a JHPD commander at the rank of Captain or above.
- If a youth must be Strip Searched in the field, Officers must provide enhanced protection and privacy. “[A]dolescent vulnerability intensifies the patent intrusiveness of the exposure [of a strip search].” *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 375 (2009). See

Officers shall consult JHPD Directive #426, Police Interactions with Youth, for additional guidance.

- Q.** Where Probable Cause exists to conduct a Strip Search, and prior approval has been obtained, the arresting officer shall document the approval in the Incident Report. The basis for Probable Cause to Search must be clearly defined. The officer shall document:
- Date, time, duration, and location of the Strip Search.
  - Identity of the officer conducting the Strip Search.
  - Identity of the person Strip Searched.
  - Identity of any other persons(s) present during the Strip Search.
  - A detailed description of the nature and extent of the Strip Search.
  - List of item(s) seized as a result of the Strip Search.
  - If the Strip Search was recorded on BWC in conformance with JHPD Directive #433, Body-Worn Camera.
  - Any wounds, scars, or abrasions on the person's body in the areas being Strip Searched. (CALEA 1.2.8.c)
    - o This report must be submitted by the officer and reviewed by the Deputy Chief or higher within 48 hours of the Strip Search. The Deputy Chief shall review the Incident Report, and all BWC footage pertaining to the Probable Cause for the Strip Search.
- R.** Following a Strip Search, the officer will provide the person that was the subject of the Strip Search with a copy of the Incident Report.
- S. Supervisor Responsibilities**
- Ensure only same-Gender Searches, or searches where the person's preference regarding the Officer's gender is honored, are conducted unless exigent circumstances exist.
  - Ensure all Strip Searches are documented in an Incident Report.
  - Collect, review, and approve Incident Reports.
- T. Commander/Deputy Chief Responsibilities**
- Commanders/Deputy Chiefs shall approve/disapprove requests by officers to conduct Strip Searches. In analyzing requests, they shall pay particular attention to:
    - o The strength of the Probable Cause justification that the person is concealing contraband or a dangerous weapon.
    - o Whether the Officer gave the person the opportunity to voluntarily produce the suspected item.
    - o Whether any exigency could be alleviated.

- Commanders/Deputy Chiefs shall receive and review the Incident Report, and all BWC pertaining to the Probable Cause for the Strip Search within 48 hours.

## **XVIII. Prohibited Actions**

- A. Officers shall not conduct a Field Strip Search for anything other than a deadly weapon. As provided in Section III(D) and (E), an officer may not conduct a Field Strip Search for a deadly weapon unless the officer has Probable Cause to believe the arrestee is concealing a deadly weapon, the arrestee is a threat to themselves or others, and the arrestee cannot be transported safely to conduct the Strip Search in a JHPD, intake or medical facility.
- B. Officers shall not conduct any Cross-Gender Strip Searches, unless requested by the person being searched. (Officers shall honor the preference of the person being searched).
- The gender identity of the person being Strip Searched may be determined by asking the person being Strip Searched for their gender identity. See JHPD Directive #107, Interactions with LGBTQ+ Individuals
  - If the person expresses a preference about the gender identity of the officer who will conduct the Strip Search, that request should be honored. In the absence of a stated preference, the gender identity of the person being Strip Searched shall be consistent with the gender identity of the officer conducting the Strip Search.
  - If an officer of the same or preferred gender of person that is the subject of the search is not available, the officer shall request assistance from BPD.
    - o All cross-gender strip searches done pursuant to the person's stated preference shall be documented in the Incident Report.
- C. **Body Cavity Searches**, are strictly prohibited, except for:
- The visual inspection or minor manual manipulation of a person's ear, nose or mouth which may be performed, without approval, by an officer if they have Probable Cause to Search.
  - Officers shall not manipulate the mouth to attempt to prevent the ingestion of a Controlled Dangerous Substance (CDS). If the officer believes that a person has ingested CDS or another harmful substance or object, the officer shall immediately request Emergency Medical Services (EMS) to respond. If the person is choking the Heimlich Maneuver should be used in lieu of reaching into the mouth to extract the substances or object.
  - If an officer has probable cause to believe that an arrestee has concealed contraband or a weapon in a body cavity requiring a Body Cavity Search, the officer will immediately transport the arrestee to an intake facility or

call for EMS if it could cause injury, and provide that information to the processing officer or EMS for appropriate action.

- Under no circumstance shall an officer extract an item that is concealed in the anal or vaginal cavity, whether partially visible or not. In such circumstances, officers shall immediately call for EMS.

## **XIX. Seizures of Property during a Search** (CALEA 1.2.4)

- A. Officers are authorized to seize property, including vehicles located during a search that they have Probable Cause to believe the property is evidence of a crime, illegal contraband, or an instrument of a crime.
- B. Items seized or recovered following any search shall be packaged, preserved and accounted for in accordance with JHPD Directives #468, Collection & Preservation of Evidence, and #469, Property & Evidence Management. All items will be submitted as soon as possible, and prior to completion of the officer's shift. (CALEA 84.1.1.a.b)

## **XX. Training**

- A. All officers will receive training in the federal and state law requirements and related law regarding search and seizure, and this Directive, along with JHPD Directive #409, Field Interviews, Investigative Stops & Pat-Downs, before completion and release from the Field Training and Evaluation Program.
- B. In addition, all officer, supervisor or command staff shall receive specific training and regular updates regarding the requirements of and must receive and be familiar with this Directive, along with JHPD Directive #409, Field Interviews, Investigative Stops & Pat-Downs. The receipt of these directives shall be documented in accordance with JHPD Directive #202, Written Directive System. (CALEA 12.2.1.c)
- C. The Public Safety Training Section will ensure that all officers are compliant with Maryland Police Training Commission and legislative and requirements regarding initial and in-service training on in Fourth Amendment requirements and related law on Investigatory Stops and Detentions, and Searches and Seizures.
  - Annual in-service training will include a review of this Directive and JHPD Directive #409, Field Interviews, Investigative Stops & Pat-Downs. (CALEA 4.3.3, 33.5.1)

## Policy Enforcement

<b>Enforcement</b>	Police Department managers and supervisors are responsible for enforcing this Directive.
<b>Reporting Violations</b>	Suspected violations of this directive should be reported to the Public Safety Accountability Unit.

## Related Resources

<b>Policies and Documents</b>
<p>Conduct &amp; Responsibility #106, Fair &amp; Impartial Policing</p> <p>Conduct &amp; Responsibility #107, Interactions with LGBTQ+ Individuals</p> <p>Conduct &amp; Responsibility #110, Observation &amp; Recording of Police Services</p> <p>Operational Procedure #409, Field Interviews, Investigative Stops &amp; Pat-Downs</p> <p>Operational Procedure #412, Custody, Transport &amp; Processing</p> <p>Operational Procedure #442, Traffic Control &amp; Enforcement</p> <p>Operational Procedure #469, Property &amp; Evidence Management</p> <p>Operational Procedure #470, Field Reporting System</p>
<b>External Documentation</b>
<b>Forms and Systems</b>

## Contacts

<b>Subject Matter</b>	<b>Office Name</b>	<b>Telephone Number</b>	<b>E-mail/Web Address</b>
Policy Clarification and Interpretation			