

1. In many cases, interactions with mentally ill people simply call for empathy, tolerance, and respect for the dignity of the person. However, if a crisis begins to develop or escalate, an officer must react accordingly. Police officers should not hesitate to use force to prevent the individual from harming themselves or others.

2. If it is determined that a person is mentally ill and does not need to be taken into police custody, the officer will need to determine whether the person can carry on without assistance, or be referred to the Northern Human Services. Northern Human Services offers assistance to the mentally ill by providing various resources such as, counseling, financial assistance, housing, and other forms of assistance.

E. CUSTODY/TRANSPORTATION:

1. There are times when a person who appears to be mentally ill will need to be detained or placed under protective custody for a proper mental health evaluation. In these situations officers shall follow the guidelines set forth in the Berlin Police Department Standard Operation Procedure, 40.12, Involuntary Admissions.

2. Officers should be aware that an arrest or protective custody could trigger an anxiety response and escalate matters. Transporting patients with mental illness requires officers to use caution. When applying handcuffs officers should explain the necessity of the restraints and do so in a calm manner. Whenever possible two officers should be used during transportation.

F. TRAINING:

1. All agency personnel who have contact with the public shall receive entry-level training in properly dealing with persons suffering from Mental Illness.

SEARCHES WITHOUT WARRANTS

In Effect: 11/04/2008

Review Date: 09/01/2022

45.4 SEARCHES WITHOUT WARRANTS

HPD 70.2; 70.5;70.6
State v Sterndale 136 NH
Troy, NH P.D. (1995)

I. PURPOSE:

The purpose of this general order is to establish guidelines, responsibilities, and procedures for searches without a warrant.

II. POLICY:

This policy sets forth the conditions under which a warrantless search may be made by an officer of this department.

III. PROCEDURES:

A. General Rule: Under the Fourth Amendment to the U. S. Constitution and Part I, Article 19 of the N. H.

Constitution, all searches are per se unreasonable unless they are conducted pursuant to a warrant or one of the following exceptions to the warrant requirement.

B. Probable Cause Requirement: Searches with or without a warrant, except for those delineated under "stop and frisk" below, shall only be conducted with consent, or where there is probable cause to believe that the objects of the search are fruits of a crime, instrumentalities, evidence of a crime, implements of escape, or contraband, and will be presently found in the place or places to be sought.

C. Scope of the Search: The scope of a search is generally limited to those places where the items sought could reasonably be located. One cannot search "for an elephant in a bureau drawer."

IV. SEARCH INCIDENT TO ARREST:

The person of an individual who is arrested can be searched without a warrant if the search occurs contemporaneously with a valid arrest. The purpose and scope of the search is to protect the officer and others from harm, to avoid the destruction of evidence, and to remove means of escape. The scope of the search can include the body of the arrested person and the immediate area from which s/he might reasonably gain possession of a weapon, means of escape, or destructible evidence. (See 70.2)

V. PROTECTIVE CUSTODY DETENTIONS:

If the person is not being formally arrested, but rather is being placed in protective custody for intoxication, drug impairment or because they are a harm to themselves, the authority to search is limited. You may search the detainee for weapons if you have reasonable suspicion that the detainee may be armed, and you may search for identification if you do not know the identity of the detainee. You may seize any contraband you discover through "plain view" or "plain feel" while searching for weapons or identification. (See 70.5)

VI. INVENTORY SEARCHES OF ARRESTED PERSONS:

During the booking process of an arrested person at the police station or county jail, an inventory search of the person and items in their possession at the time of their arrest, "to include any type of closed containers," shall be conducted to protect the property of the arrested person, to protect the authorities against later allegations of lost or stolen property, and to protect the custodians and other prisoners from possible danger. A record shall be kept of all items seized, and prisoners shall be required to sign a receipt upon the return of their property. (See 70.5 D.)

VII. INVENTORY SEARCHES OF SEIZED MOTOR VEHICLES:

Whenever an officer takes custody of a motor vehicle for impoundment purposes, such as where the occupant is under arrest and the vehicle must be towed, they shall conduct a complete inventory search of the entire vehicle, including the passenger compartment, trunk or cargo body, and any containers therein. A list of all items inventoried shall be kept, and the owner of the vehicle required to sign a receipt upon the return of the vehicle. (See 70.6)

VIII. MOBILE VEHICLES:

The New Hampshire Supreme Court has departed from the U. S. Supreme Court decisions relative to searches of a mobile vehicle for contraband based on probable cause. In *State v. Sterndale* (1995), the N. H. Supreme Court declared that it does not recognize the so-called "automobile exception", and that the mere mobility of a motor vehicle is not sufficient justification for a warrantless search - it requires probable cause

plus exigent circumstances, otherwise the vehicle should be detained until a warrant can be obtained.

For example, where a police officer about to stop a vehicle that was weaving on the road and observed the driver reach under the seat and discard a suspicious object, and the driver was later in custody outside the vehicle with a second officer present at the scene, the court ruled that there were no exigent circumstances justifying a search without a warrant and that when the officer entered the vehicle, reached under the seat and seized the discarded object, which turned out to be contraband, the seized object was the fruits of an illegal search and, therefore, inadmissible in court.

IX. EXIGENT CIRCUMSTANCES:

Police may always conduct a search based on probable cause plus exigent circumstances. Exigent circumstances are those which present a compelling need for immediate official action and a risk that the delay inherent in obtaining a warrant will present a substantial risk of imminent danger to life or public safety, or where the time that is necessary to obtain a warrant would result in the destruction of evidence.

For example, where several people accosted two (2) women on the street and fired shots at them and fled and a police dog followed the scent of the suspects to an apartment, this information, coupled with calls from neighbors reporting overhearing the persons in the apartment discussing a shooting, plus a name on the apartment mailbox that corresponded with a name the women had overheard one of the suspects call the other, justified an immediate warrantless search of the apartment for the suspects because a sniper might be on the loose and, if not immediately apprehended, might attack someone else.

X. FIRE AND CRIME SCENES:

Courts have recognized that fire and law enforcement officials may enter a location in an emergency without a warrant. The police do not need a warrant to enter a structure to rescue a person from harm. The police may also enter a structure when called to an assault or homicide scene to ascertain a victim's medical condition or to remove the victim from the scene. In addition police officers may enter to determine if the perpetrator remains on the scene. The police may not conduct a complete search once they have treated and searched for victims, and searched for perpetrators. The reason for this is that the emergency that required the warrantless entry has dissipated after the police secure the scene. The officers now must have a warrant or one of the other exceptions to the warrant requirement to either remain on the premises or continue the search. There is no "crime scene" exception to the search warrant requirement.

While officers at the scene cannot conduct a full search, they may take steps to preserve the scene such as securing doors and controlling people on the premises, to guarantee that the scene is not contaminated.

XI. PLAIN VIEW:

An officer may seize evidence that is in plain view at any time when the initial intrusion which afforded the view was lawful, the discovery of the evidence was inadvertent, and the incriminating nature of the evidence was immediately apparent. Once again, the N. H. Constitution is interpreted by our Supreme Court as setting a stricter standard for plain view searches than that which exists under the U. S. Constitution.

XII. CONSENT SEARCHES:

A search warrant is unnecessary if consent to the search is given by the owner or person who has custody or joint custody of the premises to be searched. While it is good policy to inform the individual of their right to refuse the search, it is not required. A consent which is obtained by trick, duress, or misrepresentation is

invalid. A person who gives consent to search may give partial consent (limiting the scope of the search) and may revoke their consent at any time, in which case the search must cease but any evidence discovered and seized prior to the revocation of consent may be retained by the police. Oral consent to search is valid, but wherever possible, officers shall seek written consent on a standard departmental form.

XIII. OPEN FIELDS:

Generally, no warrant is required to search open fields outside the curtilage of a residence, even if the property is posted against trespassing; however, a warrant may be advisable before seizing any evidence discovered.

XIV. CRIME SCENE:

In most incidences where an officer has to conduct a search of a crime scene there will not be an issue as to whether or not the officer will have permission to conduct the search. In most cases the police will have been called to the scene by a victim who has the authority and will allow the investigating officers to have unlimited access. In all cases after the original search for victims or suspects, the officer should obtain express permission from the owner of the property to further search for evidence or process the scene. This permission shall be documented in a police report or in more serious cases a Consent Search Form should be completed.

There will be some situations that will arise where the investigating officer may need to take additional steps in order to legally gain access to a crime scene. In such cases the shift supervisor shall be notified and a determination will be made if a search warrant is required.

CITIZEN COMPLAINT POLICY/INTERNAL AFFAIRS

In Effect: 08/01/2020

Review Date: 09/01/2022

80.1 CITIZEN COMPLAINT POLICY / INTERNAL AFFAIRS

I. PURPOSE:

The purpose of this policy is to establish uniform procedures for addressing complaints of misconduct by police department personnel. These procedures will govern the investigation and resolution of complaints that are brought to the attention of the department. The procedures are designed to ensure that the integrity of the department is maintained through an internal system whereby objectivity, fairness, and justice are ensured by an impartial investigation and review. An additional purpose of this policy is to ensure that complaint information is compiled, tracked, analyzed, and made available to the Chief of Police for use in managing the department.

II. POLICY:

It is the policy of this department to investigate all complaints of alleged officer misconduct, and to equitably determine whether the allegations are founded or unfounded and to take appropriate action.