

POLICE GENERAL ORDERS

CHAPTER 44

SEARCH OF PERSONS, PREMISES AND VEHICLES PONICS III AND ROP CHECKS

19/01
04/07

44-01 Search Warrants

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A senior police officer in a party executing a search warrant shall cause a report to be made as soon as possible to the DO of the Division or Sub-Division in which the search warrant was executed. The DO shall enter details into the CMIS.

2. Apart from going to the station concerned, reports of warrant executions can be made by means of PEN to the DO.

3. In obtaining online service subscriber records with a search warrant, the OC Case of the requesting unit shall report the relevant warrant execution to the DO upon receipt of records from Cyber Security and Technology Crime Bureau (CSTCB) via online channel. In case CSTCB collects the requested records physically from the service provider, it would then be CSTCB who reports the relevant warrant execution.

4. Notwithstanding paragraph 2 above, any person arrested or exhibit seized (other than bank account statements provided by a bank or call records provided by a telephone or paging company or records provided by an online service provider) has to be brought to the station concerned for full documentation and inspection by the DO.

44-03 PONICS III and ROP Checks

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Personal data held on the Third Generation Police Operational Nominal Index Computer System (PONICS III) and the Registration of Persons System (ROP) is graded Restricted and use of it is governed by the Personal Data (Privacy) Ordinance, Cap. 486, Government Security Regulations and Force instructions stipulated in PGO/FPM Chapter 44 and PGO/FPM Chapter 76. Audit trails are conducted with regard to requests made for data on PONICS III and ROP and unauthorised access to, or use of such data (including unauthorised disclosure), by any police officer or police civilian staff will result in criminal or disciplinary action.

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2. The PONICS III can be accessed through terminals which have been provided with PONICS III access or the Name of Interest (NOI) Sub-system of the Third Generation Computer Assisted Command & Control System (CACCS 3); ROP can be accessed only through the NOI Sub-system of the CACCS 3 terminals. A terminal operator shall not:-

- (a) leave the terminal without first logging off;
- (b) allow another person to use his operator's account;

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- (c) allow his access password to be insecure in any manner;
- (d) write down or otherwise record his access password; or
- (e) provide his access password to another person.

3. Whenever a PONICS III or ROP check is conducted the enquiring officer shall make an entry as soon as practicable in his notebook, or on the investigation file.

19/11 **Conducting a PONICS III or ROP Check**

4. The operator shall after confirming the requesting officer's identity by ways such as checking the officer's UI number using the Phone Book of POINT or the Maintain User Particulars function of CMIS, enter in the terminal:-

- (a) the requesting officer's UI number and Posting;
- (b) reason for the enquiry;
- (c) the stop location (including the registration numbers of vehicle/vessel in which the subject person is on board) and the beat number in the case of a stop and question/search; or
- (d) the file reference in the case of a general enquiry or an arrest.

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5. When the request for a check is made in person, the operator shall inspect the warrant card of the requesting officer for verification of identity and confirmation of the posting of the requesting officer. The operator shall also obtain the reason for the enquiry and a file reference from the requesting officer for input in the terminal before a check is conducted.

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6. Beat radios are usually allocated to officers according to the duty lists and officers requesting PONICS III or ROP checks via beat radios are readily identified. Operators shall obtain the reason for the enquiry, stop location and beat number before facilitating the checks. Reference can be made to FPM 44-03 paragraphs 17 to 21 regarding user access by beat radio.

7. When the request is made by telephone, the operator shall only conduct a check if:-

- (a) the requesting officer belongs to the same parent Formation as him/her;
- (b) the requesting officer belongs to a Force or Regional Headquarters unit and is investigating a case of the operator's parent Formation;
- (c) he/she is attached to the Enquiries Sub-unit of CRB; or

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- (d) he/she is attached to an RCCC and the requesting officer belongs to the Formation(s) which his/her console serves.

In all cases, the operator shall obtain the following information from the requesting officer:-

- (a) his/her full name;
- (b) his/her UI number;
- (c) his/her Region, District, Division or station;
- (d) reason for the enquiry;
- (e) the stop location (including the registration numbers of vehicle/vessel in which the subject person is on board) or the file reference; and
- (f) a "recognised official telephone number" for relaying the result and inputting of the number into either the "Stop Location" or the "File Reference" field together with the stop location or the file reference, as the case may be. For the purpose of this order, a "recognised official telephone number" includes:-
 - (i) an office telephone;
 - (ii) a FMRT number;
 - (iii) a designated telephone number of a command post/operation room that has been properly recorded in an Incident in the CACCS 3 or a Report Case in the CMIS;
 - (iv) a telephone or mobile phone number provided by the supervising officer of the operator as being a contact number in a pre-planned operation; or
 - (v) a telephone or mobile phone number provided to CRB by the supervising officer of the requesting officers in a pre-planned operation or an incident which warrants assistance from CRB.

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8. For request by telephone, the result of the check shall only be furnished to the requesting officer by the operator calling back the requesting officer on the "recognised official telephone". No checks shall be conducted for any person claiming to be requesting the check for other officers, including those claiming to be a senior officer acting for his subordinates or claiming to be acting for his senior officers. In case of doubt, the operator shall confirm with the requesting officer's supervisor as to the identity of the requesting officer and the legitimacy of the request, otherwise no checks shall be conducted and a UB officer shall be deployed to the location where the requesting officer is to assist in the check.

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- 19/11 9. When no "recognised official telephone number" can be provided by the requesting officer and the deployment of a UB officer to assist him/her in the check is impracticable, the operator may request the requesting officer to disclose the identity and contact of his supervising inspectorate officer for the operator to confirm the identity of the requesting officer, or the requesting officer may contact his/her supervising officer requesting him to contact the operator to authenticate the requesting officer's identity. During the authentication process, the identity of the supervising officer will be confirmed under the same procedures as PGO 44-03, para. 7. The supervising officer will provide his full name, UI number and posting, his/her official telephone number (if applicable, which can normally be confirmed through the Phone Book System). Both the requesting officer and the supervising officer will make relevant record in his/her own notebook, the occurrence book or case file as appropriate. After the authentication, the operator will provide the checking service as stipulated and a non-recognised official telephone number will be accepted for the return call.
10. Criminal conviction data shall not be passed to an officer by radio or telephone during stop and question/search operations. Information that is allowed to be provided to an officer by radio or telephone in stop and question/search operations is restricted to whether the subject is wanted, dangerous or missing by code, and the legal and factual grounds for the arrest if the subject is confirmed to be wanted. Criminal conviction data may be passed to investigators via telephone in the course of case investigations.

The Personal Data (Privacy) Ordinance Cap 486

- 27/13 11. Notwithstanding the lawful exercise of statutory powers, officers shall comply with the requirements under the Personal Data (Privacy) Ordinance [PD(P)O] when requesting or requiring data from a subject, and subsequently the handling of the data (including the recording, security and disposal of data). For further information on the PD(P)O, please refer to PGO/FPM Chapter 12, PGO/FPM Chapter 76 and the *Data Privacy Web Site on POINT*.

10/04 44-04 Search of Premises

A police officer shall not enter any premises for the purpose of a search unless he is legally empowered to do so, or has the consent of the owner or occupier of the premises.

2. A police officer, having entered any premises to conduct a search with the consent of the owner/occupier, shall forthwith leave the premises once the consent to enter has been withdrawn by the owner/occupier. Where such consent is given, the officer will record this fact in his official notebook and read the entry to the person or invite him to read it himself, and thereafter invite the person who gave the consent to sign his name next to the entry. If entry into the premises has been granted by the owner or occupier for the purpose of making general enquiries, and at the time of entry the officer does not intend to conduct a search and gather evidence, there is no need for the owner/occupier to sign the officer's notebook entry.

3. If an officer has entered premises to make enquiries with the owner/occupier and subsequently decides to conduct a search of the premises, the provisions of paragraphs 1 and 2 above apply, and a search should only be conducted if the officer is legally empowered to do so or has the consent of the owner/occupier of the premises.

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4. When executing a search warrant or conducting a search of premises under an authorisation, the senior police officer present shall:-

- (a) declare his name, rank, unit or station and, if in plain clothes, produce his warrant card;
- (b) ensure that all other officers in plain clothes accompanying him produce and display their warrant cards;
- (c) state the purpose of the search and explain the authority under which he is acting;
- (d) if in his possession, produce the warrant;
- (e) if he is executing a warrant not actually in his possession, inform the person in charge of the premises that if he so wishes, the warrant will be available for inspection after the search has been completed, and inform him of where the warrant will be available for such inspection; and
- (f) if acting under a general authorisation, produce the authorisation.

5. When property is seized from premises after a search, the officer in charge of the search will ensure that the owner or occupier of the premises, or in their absence another person who is assessed to be able to act on their behalf, acknowledges the seizure of the property by signing an itemised list of the property in a police notebook. In circumstances that make the use of a police notebook impractical, the officer in charge may authorise the list to be compiled in an alternative document. In the event that it is not possible for the seizure to be verified by an appropriate person, either due to non-availability or a refusal to co-operate, the record of seizure will be endorsed accordingly by the officer in charge of the search.

6. An officer in charge of a search shall ensure that the amount and location of valuable property including cash still on the premises, is identified and documented by whoever is relieving him or assigned to guard the premises.

7. When valuable property including cash has been discovered and the owner or occupant is not available at the conclusion of the search, the officer in charge shall place the premises under police guard to await the return of the owner or occupant.

8. The officer in charge of the search shall seek guidance from his Formation Commander as to the duration of the police guard in such circumstances.

9. If damage is caused to premises by forcible entry or search the officer in charge shall record all details, but shall not offer compensation to the owner or occupant. Where considerable damage is caused to premises by forcible entry or search, the officer in charge of the search shall record all details, ensure the damage is photographed and obtain an estimate of the cost of repair.

04/07 **44-05 Search of Persons**

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Guiding Principles

A search may be perceived as an invasion of a person's dignity, privacy and constitutionally entrenched human rights and therefore the scope of any search to be carried out must be determined on an individual case-by-case basis according to the prevailing circumstances.

2. Searches are to be conducted in as polite a manner as possible and with the preservation of the dignity of the subject of the search paramount.

Search of Persons

3. An officer shall not conduct a frisk or a wall search of a member of the opposite sex nor may he/she observe or be present during a search of a member of the opposite sex which involves the removal of clothing so as to reveal underwear. In the absence of a woman officer, an officer shall escort a female suspect to a police station or police launch for search by a female officer.

4. A search involving removal/partial removal/looking into/search/request for removal of items of clothing worn to cover a subject's private parts, will only be carried out by a police officer of the same sex.

09/19 5. A search of any suspect, which involves the removal/partial removal/looking into/search/request for removal of items of clothing worn to cover a subject's private parts, shall only be carried out in the privacy of a police station, a police launch or a location providing equal privacy to the suspect. This type of search shall only be conducted with the prior approval of an officer of or above the rank of Sergeant who shall record the incident in the CMIS or his police notebook. An officer of Sergeant rank or above who authorises such a search will ensure that the searching officer's reasons for searching are justified and will direct an officer of the same sex to assist as a guarding/witnessing officer.

6. Having conducted any form of search, an officer will make a notebook entry as required by PGO 53-01. The notebook entry will contain the particulars of the subject, the time, date and location of the search, the scope of the search, the reason for conducting the search, details of the witnessing/guarding officer and, where appropriate, details of the authorising officer.

7. The officer witnessing the search will also make a corresponding notebook entry.

8. A "body cavity" or "intimate" search for Dangerous Drugs may only be performed under Section 52(1A) of the Dangerous Drugs Ordinance, Cap. 134.

44-08 Seizure of Documents to Which Legal Professional Privilege (LPP) May Apply

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When it is necessary to enter premises to seize any articles to which LPP may apply, or where the premises of a legal practitioner is to be entered under the authority of a search warrant, the Director of Public Prosecutions shall be consulted in the first instance, unless this would result in evidence being removed or otherwise disposed of. In such cases, a decision shall be made by an officer not below the rank of Chief Inspector.

2. Whenever an officer executing a warrant considers that a valid claim of LPP exists, he shall:-

- (a) not examine the articles for which LPP is claimed;
- (b) seize those articles and seal them in an exhibit envelope or other suitable container;
- (c) sign his name across the seal and request the person claiming LPP to do similarly;
- (d) deposit the sealed articles in the Formation Property Office pending determination of the claim of LPP in court; and
- (e) seek further legal advice on the matter at the earliest opportunity.

Police Public Usage
警察公眾閱覽