

Police Department Policy Manual

LAW ENFORCEMENT ROLE & AUTHORITY	Chapter No. 1
Effective Date: 04/01/2018	Reference: Chapter 44 - Juveniles Chapter 54 – Public Information Chapter 61 – Traffic Enforcement Taser Procedures
Revision Date: 10/19/2018	

1.1.1 OATH OF OFFICE

Each member of the Pasco Police Department, prior to assuming sworn status, will take and abide by an oath of office. The oath is administered by the Chief of Police or designee and requires the officer to uphold the Constitution and laws of the United States and State of Washington. In addition, the oath requires officers to obey the rules and regulations of the Pasco Police Department.

1.1.2 CANON OF ETHICS

Employees of the Pasco Police Department abide by a Canon of Ethics as adopted by the International Association of Chiefs of Police. All personnel will complete ethics training at least every two years.

1.1.3 AGENCY PARTICIPATION IN DIVERSION PROGRAMS

The court system makes available to qualifying offenders a variety of means which provide alternative diversions. The Pasco Police Department participates and supports both the local and county level programs which are provided.

In accordance with the Washington State Juvenile Justice Act and the Franklin County Juvenile Prosecutor's Office, the Pasco Police Department participates in the Franklin County Juvenile Court's Diversion Program. This is a recognized program that is an alternative to juvenile filing procedures. The juvenile's eligibility to enter the program is determined by the Franklin County Juvenile Prosecutor's Office and based on the individual's age, offense, and past criminal behavior.

Please refer to 44.2.1 Handling Juvenile Offenders.

1.1.4 CONSULAR NOTIFICATION

All levels of law enforcement must ensure that foreign governments can extend appropriate consular service to their nationals in the United States and that the United States complies with its legal obligations to such governments. Our government expects United States citizens to be provided the same services while abroad and therefore we must ensure reciprocal consular services. Therefore the following practices will apply when dealing with foreign nationals.

Further information is available at

<https://travel.state.gov/content/travel/en/consularnotification.html>

Definitions:

Pasco Police Department Policy Manual

Chapter No. 1 Law Enforcement Role and Authority

- **Foreign National:** Any person that is not a United States citizen, to include permanent resident aliens who have a registration card commonly referred to as a “green card” and persons in the United States illegally.
- **Consular Officer:** A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government. The consular officer may be a volunteer (honorary consul). Consular officers have identification cards issued by the Department of State.
- **Mandatory Notification Countries:** These countries must have their consular officer notified regardless of the wishes of their citizen. A list of mandatory notification countries is maintained in the Records Unit and can be accessed at the Washington Criminal Justice Training Center website.
- **Detention:** The Department of State does not consider it necessary to follow consular notification procedures when a foreign national is detained only momentarily, e.g., during a traffic stop.

The following steps should be used whenever a foreign national is arrested or detained.

- **Determine Involved Country:** This may be determined by asking a subject suspected of being a foreign national or by appropriate documentation, e.g. passport, visitor visa, etc.
- **Determine If Mandatory Country:** If the foreign national is from a mandatory notification country then advise the subject that you will be notifying the appropriate consular officer. Information for how to contact the consular officer can be accessed at the Washington Criminal Justice Training Center website and their link to the State Department. Faxed notification is considered sufficient during non-business hours.
 - **Other Countries:** If the foreign national is not from a mandatory notification country then you should offer to contact the appropriate consular officer. If they request that the consul be contacted during any point of the arrest or detention, then the appropriate consul shall be contacted.
- **Notification:** The reason for the arrest or detention is not a required part of the notification and could violate the subject’s expectation of privacy. The notification should include the time and date of arrest/detention, the foreign national’s name, and their disposition, e.g., released or location where booked.

1.1.5 HATE CRIMES

The Pasco Police Department places a high priority on the rights of individuals guaranteed under the Constitution and the laws of the State of Washington. When such rights are violated by violence, threats or harassment, this department will utilize all available resources to assure a complete and timely investigation. [RCW 9A.36.080](#) addresses malicious harassment and the definition that includes the victims specifically protected of harassment. Other criminal conduct may apply to protected victims.

1.2.1 LEGALLY MANDATED AUTHORITY

The Constitution of the United States, The Washington State Constitution, and the Revised Code of Washington (RCW), define the scope and limits of law enforcement authority. The Washington State Constitution, Article 11: Section 11 gives cities the power to make and enforce laws within its limits. The [RCW, Chapter 10.93](#) defines the Washington Mutual Aid and Peace Officer's Powers Act and [RCW 10.93.070](#) provides General Authority Peace Officer Powers.

Officers of the Pasco Police Department have the authority to enforce all laws on the federal, state, and local levels. This authority includes the power of arrest as defined by law.

1.2.2 AUTHORITY TO CARRY AND USE WEAPONS

All sworn officers employed by the city are issued department weapons to be carried and used, if necessary, in the course of their lawful duties. [RCW 9.41.050](#) and [9.41.060\(1\)](#) define the legal authority of police officers to be armed and provides exceptions to restrictions on carrying firearms. The Pasco Police Department authorizes its sworn personnel to carry and use department issued weapons while either on or off duty. Sworn personnel are not required to be armed when off duty. Employees will not carry department owned weapons when impaired by alcoholic beverages or prescribed medication.

Sworn personnel must maintain firearms training as defined in standards 1.3.10 and 1.3.11.

1.2.3 CONSTITUTIONAL REQUIREMENTS

In order to protect the constitutional rights of persons involved in criminal investigations and to allow officers to interrogate suspects consistent with current case law, the following guidelines will be adhered to:

Officers shall not coerce or obtain involuntary confessions from persons suspected of criminal involvement.

Prior to interrogating a suspect whenever he/she is in custody, or is otherwise deprived of his/her freedom, an officer must first advise the suspect of his or her constitutional rights as required by the U.S. Supreme Court decision of *Miranda versus Arizona* (1966). The definition of a custodial interrogation can be a confusing concept. Whenever there is doubt about a custodial interrogation, the suspect should be advised of his constitutional rights.

Miranda warnings are not necessary under the following circumstances:

- Before questioning a person who was merely a witness to a crime or who may know something about a crime but is not a suspect.
- Before questioning a suspect who has not been deprived of his/her freedom in any significant way and realizes he/she is free to terminate the interview at any time.
- Before questioning a motorist who has been stopped for a routine traffic offense.

- Before asking questions reasonably motivated by concern for public safety.
- Without express questioning, or its functional equivalent, there is no "interrogation" within the meaning of Miranda, even though the suspect may be in custody.
- Right to counsel - once a defendant has expressed a desire to exercise the right to counsel, he/she shall not be interrogated until the defendant has obtained counsel or a court-appointed attorney.
- Pre-trial hearing(s) - when a person is arrested with or without a warrant, if the person is not released on bond or his own recognizance, he/she shall be brought before the court having jurisdiction without unnecessary delay.
- Pre-trial publicity - Because pre-trial publicity could prejudice fair trial, departmental personnel will follow guidelines outlined in Standard 54.1.1.

1.2.4 WARRANTLESS SEARCH AND SEIZURE

Pasco Police Officers have the authority to conduct searches and make seizures without a warrant in the following circumstances:

Search by Consent

- The consent must be "voluntary" and they can legally refuse the consent without repercussion.
- A party having the authority to give consent must grant the consent and can withdraw consent at any time. They must be told that they can also limit the scope of the search.
- The search must be limited to the scope of the consent granted.

Stop and Frisk

Stop and frisk searches fall within one of the exceptions to the warrant requirement as set forth in the 4th Amendment to the U.S. Constitution and Articles 1 and 7 of the Washington State Constitution. Officers must be able to articulate circumstances where they have reason to fear for their safety to take such action. A stop must be based on reasonable suspicion of criminal activity in the past, present or immediate future.

Movable Vehicle Exception

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this Department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Pasco Police Department Policy Manual
Chapter No. 1 Law Enforcement Role and Authority

Whenever practical, members are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

At the Scene of a Crime

The U.S. Supreme Court has ruled there is no exception to the 4th Amendment for crime scene searches. However, in responding to a homicide or serious assault scene, officers may:

- Make warrantless entry where they reasonably believe a dead body or injured person will be found. A suspected dead body may still be alive and entry is justified under the Emergency Doctrine.
- Examine the body itself.
- Search the premises for other victims or suspects.

Public Safety, Exigent Circumstances

- The Emergency Doctrine allows warrantless entry.
- The need to protect or preserve life, avoid serious injury or protect property in danger of damage justifies an entry that would otherwise be illegal.
- Officers will render aid to individuals in danger and protect their property and premises. Motivation for entry triggers the assertion of the Emergency Doctrine.

Vehicle Impoundment, Inventory of Contents

- A vehicle may be impounded and its contents inventoried in order to make note of items of value for the registered owner. Such inventory searches cannot be used as a pretext for a search for evidence of a crime.
- If there is probable cause to believe the vehicle was used in the commission of a crime or contains evidence of a crime, the Franklin County Prosecutor's Office recommends the use of a search warrant whenever possible.

Search Protocol

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, certain guidelines should be followed whenever circumstances permit.

Guidelines

These guidelines should be followed whenever circumstances reasonably permit:

- Members of this Department will strive to conduct searches with dignity and courtesy.

Pasco Police Department Policy Manual

Chapter No. 1 Law Enforcement Role and Authority

- When reasonable to do so under the circumstances, members should explain to the person being searched the reason for the search and how the search will be conducted.
- Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage.
- In order to minimize the need for forcible entry, unless it may jeopardize the safety of the operation, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practical to summon an officer of the same sex as the subject, another officer or a supervisor should witness the search.

Documentation

Officers are responsible to document any search and to ensure that required reports are sufficient. Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

Minimum Documentation Requirements

The following documentation should be made in reports:

- Reason for the search.
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys).
- What, if any, injuries or damage occurred. Appropriate photographs should be taken.
- All steps taken to secure property.
- The results of the search, including a description of any property or contraband seized.
- If the person searched is of the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer.

1.2.5 ARRESTS WITH OR WITHOUT A WARRANT

All persons detained or arrested by Pasco Police Officers will be afforded full use of their constitutional rights and will be treated professionally.

Arrest Warrants

- Felony arrest warrants issued by the Franklin County Superior Court are valid within the United States.
- Misdemeanor arrest warrants issued through any district or municipal courts may be valid statewide once they have been confirmed by the issuing court.
- All arrest warrants must be confirmed before the officer makes an arrest. Simply receiving notice of a warrant does not authorize an arrest. Actual confirmation must be received.

Arrest without a Warrant

In reference to [RCW 10.31.100](#), Pasco Police officers having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. An officer may also arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of [RCW 10.31.100](#).

Search Incident to Arrest

Once a person is arrested, there is a diminished expectation of privacy of the person, which includes personal possessions closely associated with arrestee's clothing. The person may be searched for weapons, contraband, fruits and instrumentalities of the crime. Refer to standard 1.2.4 for additional search and seizure information.

- All arrestees booked into a jail facility are photographed and fingerprinted as part of the intake and booking process, see [RCW 43.43.735](#)

Once a person is arrested there is a diminished expectation of privacy of the person which includes personal possessions closely associated with arrestee's clothing. The person may be searched for weapons, contraband, fruits and instrumentalities of the crime. Refer to standard 1.2.4 for additional search and seizure information.

1.2.6 ALTERNATIVES TO ARREST

Legally Mandated Authority

The Constitution of the United States, the Washington State Constitution, and the Revised Codes of Washington (RCW), define the scope and limits as it pertains to the enforcement of laws and ordinances.

The Washington State Constitution, Article II, Section II, grants municipalities the authority to exercise all powers of local self-government; to adopt and enforce within their limits such as local police, sanitary and other similar regulations as are not in conflict with general laws.

[RCW 10.93.070](#) lists the circumstances when a general authority Washington peace officer may enforce the traffic or criminal laws of this State.

Discretion

Discretionary power is the power of free decision or latitude of choice within certain legal bounds. When exercising this power it is imperative officers take into consideration the goals and objectives of the department. They need to also look to the best interests of the public they serve, any mitigating circumstances and the severity of the situation at hand.

Alternatives to Arrest or Pre-arraignment Confinement

In the absence of clear and specific threat to the community, victim, or suspect, officers are encouraged to seek alternatives to physical arrests with incarceration.

Officers will exercise arrest powers in felony situations. Depending on the offense, and in some cases with prosecutorial approval, certain felony arrestees may be released pending filing of formal charges after they are interviewed.

Upon the arrest of a misdemeanor violator, an officer has the option of issuing a misdemeanor citation or making a field release.

1.2.7 USE OF DISCRETION

One of the most important and powerful tools an officer possesses is the ability to use discretion. Discretion can be a very valuable tool when used effectively but it can also be abused.

The Pasco Police Department is aware that officers use discretion when dealing with situations. Before deciding how to best handle a given situation, officers should consider:

- The seriousness of the crime or infraction.
- The age of the suspect.
- Alternatives to enforcement. Consider whether arrest is in the best interest of the community.
- Spirit of the Law.

Officers are permitted to use discretion in handling traffic offenses (refer to 61.1.5 and 61.1.10) and some misdemeanor crimes. However, officers will not be permitted to use discretion when dealing with those crimes, which by law mandate a physical arrest (refer to 1.2.6).

1.2.8 STRIP AND BODY CAVITY SEARCHES

Strip Searches

A strip search is defined as having a person remove or arrange some or all of his or her clothing so as to permit an inspection of the genitals, buttocks, anus and undergarments of the person or breasts of a female person. The provisions for conducting a warrantless strip search are governed by [RCW 10.79.130](#). Confidential informants are searched by consent.

Pasco Police Department Policy Manual

Chapter No. 1 Law Enforcement Role and Authority

The nature of the crime that the subject is arrested for should dictate if a strip search is necessary. If there is probable cause to believe that there is criminal evidence concealed on their body that is not a threat to the security of the correctional facility the following criteria shall be adhered to for this policy:

- No person shall be strip searched by a member of this Department unless they meet the exceptions identified in [RCW 10.79.130](#).
- No Department member should view an arrestee's private underclothing, buttocks, genitalia or female breasts while that person is showering or changing clothes unless the arrestee otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the arrestee with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the arrestee's consent and/or otherwise protect the arrestee's privacy and dignity.
- Nothing in this policy section shall prohibit the otherwise lawful collection of trace evidence from an arrestee based on a valid exigency, consent or a search warrant.

Strip searches shall be conducted as follows:

- No strip search shall be conducted without prior written authorization from a supervisor. The date, time and place of the search, the name and gender or gender identity/expression of the person conducting the search, a statement of the results of the search and a description of the nature and extent of the search shall be recorded in the police report. A copy of the written authorization and recorded information shall be retained and made available to the arrestee or other authorized representative upon request.
- All strip searches shall be conducted under sanitary conditions and in an area of privacy so the search cannot be observed by persons not participating in the search.
- Unless conducted by a physician or other licensed medical personnel, the officer(s) conducting the strip search shall be of the same gender or gender identity/expression as the person being searched.
- Whenever possible, an officer of the same gender or gender identity/expression as the arrestee should also be present during the search for the purpose of security and to act as a witness to the finding of evidence. No unnecessary persons shall be present or able to view the procedure.
- Persons conducting the strip search shall not touch the person being stripped except as reasonably necessary to complete the strip search of the person.

Strip searches will be conducted in an area that affords privacy and is not visible to the general public or facility population. An officer of the same sex or gender identity/expression will conduct strip searches in an emergency, such as the controlling of a violent offender. The

searching officer will document the strip search and the results of the search. The original document will be maintained by the correctional facility administration.

Body Cavity Searches

A body cavity search means the touching or probing of a person's body cavities, whether or not there is actual penetration of a body cavity. The authority for conducting a body cavity search is provided by [RCW 10.79.080](#).

A body cavity search requires the securing of a search warrant prior to the search. A superior court judge must issue this warrant. A physician, registered nurse, or physician's assistant who is trained in the proper medical process will do this search. The search will be documented by a law enforcement officer and his police report will include the warrant, all authorizations and any supporting documents to include the name and sex of the person(s) conducting or observing the search, as well as the time, date, location and a description of the search and an inventory of the item(s) located.

1.2.9 FAIR AND IMPARTIAL POLICING

The Pasco Police Department prohibits biased based policing in all activities and is committed to provide fair and impartial policing. This standard is intended to clarify the circumstances in which officers can consider race or ethnicity when making law enforcement decisions and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in an equitable manner. In order to be effective we must be trusted and deal with both the reality of the difficult and complex job of policing and the perception of police work. The Department uses a comprehensive approach to reach this goal.

Investigative detentions, traffic stops, arrests, searches and property seizures by officers will be based on a standard of reasonable suspicion or probable cause. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, nonconsensual searches and property seizures.

Except as provided below, officers shall not:

- Consider race, ethnicity, gender, sexual orientation or religion in establishing either reasonable suspicion or probable cause.
- Consider race, ethnicity, gender, sexual orientation or religion in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.
- Consider race, ethnicity, gender, sexual orientation or religion to provide preferential treatment in the performance of their police duties.
- Consider the fact that an individual is riding or rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest or search a person or vehicle (reference [RCW 43.101.419](#)).

Officers should take into account the reported race, ethnicity, gender, sexual orientation or religion of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race, ethnicity, gender, sexual orientation, or religion to a particular unlawful incident. Race, ethnicity, gender, sexual orientation, or religion can never be used as the sole basis for probable cause or reasonable suspicion.

The fact that an individual is riding a motorcycle or wearing motorcycle-related paraphernalia shall be taken into account the same as race, ethnicity, gender, sexual orientation or religion as outlined above, to include any enforcement action, which shall be based upon violations of the law.

- Training: Department Personnel receive training regarding fair and impartial policing, how to avoid unintended biases while aggressively enforcing the law and the ramifications of biases in policing or the perception of bias. Personnel also receive training in cultural diversity and other topics to help mitigate an individual's perception that he/she is being stopped solely due to a bias and not due to their actions.
 - Initial Training: Officers complete initial training on fair and bias based policing at the Basic Law Enforcement Academy through Washington State Criminal Justice Training Commission. Training provides Federal and State legal aspects of the topic.
 - Annual Training: Pasco Police Officers will complete annual in-service training on bias based policing including legal aspect (Federal and State) updates.
- Corrective Measures: All police supervisors are expected to remain cognizant of the need to identify trends in an officer's activity that may indicate bias and to address it through progressive discipline when necessary.
- Complaints and monitors other department practices in order to identify any biases being used by individual officers or supported by department principles and/or practices.
- Comprehensive Plan: The Police Department attempts to provide fair and impartial policing by using a comprehensive approach to identifying unintended bias and reducing its impact.
 - Education and Training: In addition, to the training provided above the Department reviews all of its training to insure that no bias has unintentionally been included in the training program.
 - Recruiting and Hiring: The Police Department and the Human Resources Department work closely together to evaluate hiring processes and eliminate any adverse impacts to minorities. The Department takes several steps to attempt to increase the pool of minority candidates for positions within the Police Department. The background process also screens applicants for any indication of overt biases.

- Outreach to Diverse Communities: Representatives of the Police Department maintain communications with several community minority groups.

The Deputy Chief, or designee, will complete Diversity in Arrests Analysis annually for Police Chief's review that includes review of department policies and procedures, any complaints of bias based policing and any corrective measures taken.

1.2.10 FOREIGN NATIONALS

[Article 36 of the Vienna Convention](#) on Consular Relations sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country. This section provides direction to officers when considering a physical arrest or detention of a foreign national.

As noted herein, the United States is a party to several bilateral agreements that obligate our authorities to notify the consulate upon the person's detention, regardless of whether the detained person(s) request that his/her consulate be notified. The list of specific countries that the United States is obligated to notify is listed in the [U.S. Department of State website](#)