



Victoria Police Manual

General Category – Operations

Topic – Searches

VPM Instruction

105-1 Searches of persons

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[Update History](#)

1. Policy

- Police members have power to search a person under:
 - common law
 - or
 - statute – warrant to search or specific search power without warrant.
- When considering searching a person there is a need to balance the:
 - possible infringement of the individual’s rights against any perceived risk to security
 - possible outcome of the search against the degree of force, the difficulty, the inconvenience, and the advisability of continuing in the circumstances.
- Once the legal authority exists, police members may conduct searches of persons by:
 - using a metal detection device
 - initial pat-down search or full search
 - complying with relevant legislative requirements and Victoria Police procedures on conducting searches.

2. References

- [Control of Weapons Act 1990](#)
- [Firearms Act 1996](#)
- [Drugs, Poisons and Controlled Substances Act 1981](#)
- [Control of Weapons Regulations 2000](#)
- [Firearms Regulations 1997](#)
- [Drugs, Poisons and Controlled Substances \(Volatile Substances\) Regulations 2004](#)
- [Direction by the Minister to Health regarding disposal of volatile substances](#)
- [VPM 105-2 – Searches of properties](#)
- [VPM 115-1 – Administration and lodgment of prisoners](#)
- [Victoria Police Reference Guide, Module 9, Topic 4](#) – Search and seizure
- [Victoria Police Reference Guide, Module 1, Topic 2](#) – Searching for controlled or prohibited weapons

3. Definitions

Full search –

- may involve the removal and examination of clothing
- generally, will not include contact with the subject’s body by the searching member
- does not include intrusive body cavity searching
- should not involve external physical examination of body cavities by touching a person’s body.

Pat-down search –

- requiring a person to empty their pockets and or submit to an external ‘pat-down’ examination
- may involve the removal and examination of headgear, shoes and socks, outer clothing and handbags
- does not include the removal of inner clothing.

Search of person – a procedure for the discovery of evidence, concealed weapons or other articles with which the person being searched may cause mischief, e.g., injury, damage or to effect an escape.

Also refer to the:

- [VPM Dictionary](#).
- section 3, Control of Weapons Act 1990, Firearms Act 1996 and Summary Offences Act 1966

4. Legal authority to search

4.1 Suspects – authority to search

4.1.1 *Common law*

There is no common law power to search a suspect who is not under arrest.

4.1.2 *Statute - without warrant*

The power to search a suspect without a warrant and without consent is limited to certain statutory powers found in various Acts.

4.1.3 *Statute - with warrants*

- Powers to search persons exist under the provisions of various warrants to search.
- Where a warrant to conduct a property search permits the searching of persons, there is no requirement at law that reasonable grounds for the searching of each person must be established, unless the legislation states otherwise.

4.2 Arrested persons – authority to search

The power to search persons arrested and to seize property without consent is found in common law. It is conditional on the arresting member holding a “reasonable belief” that the arrested person is in possession of either:

- property that is material evidence in respect to the offence for which the arrest has been made, or any other offences which may have been committed
- objects that might cause injury, damage, or be used to effect an escape.

4.3 Police Gaols – authority to search

Specific instructions apply to searches conducted in police gaols. See [VPM 115-1](#).

4.4 Reasonable grounds

Most search powers require reasonable grounds to conduct a search. Reasonable cause to suspect or believe is an objective standard. This means facts must exist which are sufficient to induce the state of mind in a reasonable person, but it must be met in each and every case. Apply the test individually to each person to be searched.

Under the Firearms Act and Control of Weapons Act, a factor that may be taken into account when assessing reasonable grounds to suspect is the fact that a person is present in a location with a high incidence of violent crime. However, this is only a factor to be taken into account and cannot be the only consideration when forming reasonable grounds to suspect but the high incidence of crime must be based on a fact not on a belief.

(ss 149(2), *Firearms Act 1996* & 10(2), *Control of Weapons Act 1990*)

4.5 Use of metal detection devices

Legal and policy requirements – a metal detector scan is a search at law and is subject to the same legal and policy requirements and conditions as a manual search. However, specific legislation applies to the use of metal detectors for scanning:

- persons in or visiting police gaols, see [VPM 115-1](#)
- persons, vehicles, packages or things for weapons, firearms and ammunition, see section 10.4 or volatile substances, see section 11.5.

Use – for safety and evidential purposes police members must be mindful that a metal detector is an aid to, not a replacement for, a manual search. A manual search should still be conducted as required.

5. Instructions applicable to a general search

5.1 Conduct of search

- Police members must inform persons to be searched of the reasons for the search.
- Police members must record search details on the Patrol Duty Return [Form 501] or in their notebook and Official Diary (if applicable).
- Police members should wear fresh disposable gloves for each person they search.
- If reasonably practicable, male police members must search males, female police members must search females. For searching transgender or intersex suspects or prisoners see [section 6.9, VPM 115-2](#).
- As far as possible, two police members should be present for every search.
- Where it is believed on reasonable grounds that the person has ingested or is concealing drugs (or related evidence) the attending police member must comply with the requirements of [section 7.3, VPM 115-2](#).
- Consider the privacy, dignity, modesty and rights of the person being searched.
- Police have no power to forcibly remove rings, earrings, studs, etc., that are not suspected to be stolen property.

5.2 Handling property seized as a result of a search

Exhibit – handle any property that is to be retained as an exhibit according to [VPM 114-4](#).

Prisoner's property – secure and handle property seized from a prisoner or person who is to be lodged as a prisoner according to [VPM 115-1](#).

Seizure of keys – where keys are seized from a driver according to s.62, Road Safety Act 1986 they are to be treated as if property seized from an arrested person. See [section 4.4, VPM 110-1](#).

Firearms and Control of Weapons - seized items are to be dealt with in line with VPM 114 - Property and Exhibits

Volatile substances - seized items are to be dealt with in line with the Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004 , section 11.7 and VPM 114 - Property and Exhibits

Other property – handle property seized and not immediately returned to the person, in the following manner:

- record and secure the items seized
- the member removing the property is responsible for it until it is handed to the arresting member
- the arresting member is responsible for the property until it is otherwise dealt with.

Return to owner – immediately return any property seized when:

- the reasons for its seizure no longer exist, e.g. there is no longer a risk of injury or damage, and the property is not to be retained as an exhibit or as part of the investigation, or
- the person from whom the property was seized is not to be lodged in a police gaol or police cells.

6. Initial pat-down search

No formal approval is required to conduct an initial pat-down search. Comply with section 5 in all cases.

7. Full search

7.1 Application

In addition to section 5, the following instructions also apply to full searches.

7.2 Approval

7.2.1 *Necessity*

Only consider a full search when there are reasonable grounds to believe that a suspect or arrested person has material that might not be found by an initial pat-down search.

7.2.2 *Level of approval*

The formal authority of an Officer or Divisional Patrol Manager is required to conduct a full search, except in the following circumstances:

- **large number of persons** – a Superintendent must authorise the conduct of full searches of a large number of persons at an entertainment or similar venue
- **urgent or serious situations** – a full search may be conducted without first obtaining an Officer or Divisional Patrol Manager’s authority where a pat-down search has revealed that the person may possess:
 - an item that contravenes the Firearms Act or Control of Weapons Act
 - or
 - an object that might cause injury, damage, or be used to effect an escape and there is an immediate danger to any person

Notify an Officer or Divisional Patrol Supervisor as soon as practicable after the search

- **police gaols** – the OIC of a police gaol must authorise the conduct of a full search within a police gaol. See [VPM 115-1](#).

7.2.3 Considerations for approval

- Whether there are reasonable grounds for the search.
- Degree to which the person should be searched.
- Nature of the offence and circumstances of the arrest.
- Demeanour, recent behaviour and prior history of the person.
- Need to balance the perceived risk to security against the possible infringement of the individual's rights.
- Need to balance the possible outcome of the search against the degree of force, the difficulty, the inconvenience, and the advisability of continuing in the circumstances.

7.3 Persons with specific needs

Persons under the age of 18 - must be accompanied by a parent or guardian, or an independent third party during a search, unless urgent or serious circumstances exist.

Intellectually or mentally impaired persons - must be accompanied by an independent third party during a search, unless urgent or serious circumstances exist.

Transgender and intersex persons – see section 6.9, VPM 115-2.

7.4 Urgent or serious circumstances

Where the search is conducted under urgent or serious circumstances record details of the circumstances and notify the authorising Officer as soon as practicable.

7.5 Conducting search

- Conduct a full search in complete privacy, preferably at police premises.
- Alternative clothing or covering should be supplied.

7.6 Recording

7.6.1 General

- The requesting and authorising members must record the search on Form 501s and Official Diaries as applicable.
- Where a full search of a large number of persons is approved (see section 7.2.2) a log must be kept identifying the individual persons searched by each police member.
- If conducted at police premises enter the details of the search and authority for the search in the E*Justice Attendance Module.

7.6.2 Recording of full searches involving the use of force

Where police members forcibly remove a person's clothing for a full search, the member in charge must ensure Forms 237 and 237A are submitted, see [VPM 101-4](#).

8. Intrusive body searches

Searches of body cavities must only be conducted:

- with an Officer's authority and if:
 - the prisoner consents;
 - there is very reliable evidence or information to justify the search and
 - the search is necessary.
- by a FMO or other legally qualified medical practitioner.

9. Consensual searches

9.1 Authority

In the absence of a legislative or common law power to search a person, a person may consent to police carrying out either a "pat down" or "full search".

- the police member intending to conduct the search must obtain a signed authority from the person detailing the:
 - name of the member carrying out the consensual search
 - name and address of the person searched
 - nature, time, date and place of the search
- provide a copy of the signed authority to the person concerned, as soon as practicable.

All other instructions relating to conducting searches of persons apply to consensual searches

9.2 Recording

- The police member must make an entry on the Form 501 or in their Official Diary.
- The authority is to be filed with a short report of the circumstances at the police member's station. Fax a copy of the authority to CDEB including result of search and details of:
 - any weapon or exhibit found
 - where on the suspect any weapon or exhibit was found.

10. Searches under Control of Weapons or Firearms Act

10.1 Justification

10.1.1 Weapons

A search can be conducted if the police member has reasonable grounds for suspecting that a person is carrying or has in their possession in a public place or a non-government school:

- a prohibited weapon
- a controlled weapon, or
- a dangerous article within the meaning of paragraph (b) of the definition of dangerous article in section 3 of the act. (ie. an article that has been adapted or modified so as to be capable of being used as a weapon).

(s. 10(1), Control of Weapons Act 1990)

10.1.2 **Firearms**

A search can be conducted if the police member has reasonable grounds for suspecting a person is committing or is about to commit an offence against the *Firearms Act*, and

- that person has a firearm, or
- cartridge ammunition in their possession

(s. 149(1), Firearms Act 1996)

10.2 **Scope of search**

A member:

- may search the person and any vehicle, package or thing in their possession or under their control
- may request the person to produce any thing they have reasonable grounds for suspecting is a prohibited weapon, controlled weapon or dangerous article
- may request the person to produce any thing they have reasonable grounds for suspecting is a firearm or cartridge ammunition
- must warn the person that failure or refusal to produce any thing so requested may be an offence

(s. 10, Control of Weapons act 1990 & s. 149 Firearms Act 1996)

10.3 **Pre-search requirements**

Prior to commencing a search the member must:

- inform the person of
 - the grounds of the suspicion
 - their name, rank and place of duty, and if requested, provide this information in writing
- produce identification if not in uniform.

(s. 10, Control of Weapons act 1990 & s. 149 Firearms Act 1996)

10.4 **Manner of conducting searches**

10.4.1 **Persons**

A member must conduct a search:

- in a manner which affords reasonable privacy to the person being searched
- as quickly as reasonably possible
- if running hands over a person, where reasonably practicable, by the same sex as the person being searched
- in one or more of the following ways -
 - passing an electronic metal detection device over or in close proximity to their outer clothing
 - running hands over their outer clothing
 - requesting the person to remove outer clothing, gloves shoes and headgear and search those items
 - once above clothing removed, running hands over the clothing or pass an electronic metal detection device over or in close proximity to the person's clothing that was immediately under the outer clothing

(r. 12, Control of Weapons Regulations 2000 & r. 15A, Firearms Regulations 1997)

10.4.2 **Vehicle, package or thing**

A member may conduct a search by one or more of the following ways:

- examining the exterior and interior of the vehicle, package or thing
- passing an electronic metal detection device over or in close proximity to the vehicle, package or thing.

(r. 12, Control of Weapons Regulations 2000 & r. 15A, Firearms Regulations 1997)

10.4.3 Additional requirements when searching students at schools

A search of students may be conducted in a "government" or "non-government" school, however, certain requirements apply:

- if it is practicable to do so, and the student is under 18 years of age, advise the student they may nominate an adult who is on school premises to be present during the search
- reasonable steps should be taken to ensure such adult is present
- the name of nominated adult present must be recorded
- if attendance at the school is the result of a report of a criminal offence comply with section 10, VPM 121-2.

(r. 13, Control of Weapons Regulations 2000 & r. 15B, Firearms Regulations 1997)

10.5 Recording responsibilities

Members - in addition to current LEAP and other recording requirements, a member who conducts a search must:

- immediately after or as soon as practicable after the search complete and submit a form L19C. If unable to obtain the name of the person searched a description of the person must be included
- ensure a copy of the form L19C is forwarded to the District Intelligence Unit prior to the completion of your shift.

Station Managers of searching member's station - the person searched is entitled to a copy of the form L19C without charge up to one year after the search is conducted. Where application is made obtain a copy of the relevant form L19C from the District Intelligence Unit and provide it, within a reasonable time, to the person searched.

District Intelligence Unit - is responsible for:

- entering relevant details from form L19C onto LEAP
- filing copies of form L19C in a safe and secure location for a period of 12 months after the search is completed
- supplying a copy of form L19C when requested by a Station Manager.

(s. 10A, Control of Weapons Act 1990 & s. 149A, Firearms Act 1996)

11. Volatile substances

11.1 Power to search

A police member may only exercise the powers under Division 2, Drugs, Poisons and Controlled Substances Act in relation to a person who is:

- in a public place as described in the Summary Offences Act 1966
- on private premises, if consent given to enter by -
 - the occupier of those premises
 - where there is no occupier, the owner of the premises

(s. 60C, Drugs Poisons and Controlled Substances Act 1981)

11.2 Scope of search

A search can be made of a person and any vehicle, package or thing in that person's possession.

Reasonable force may be use such force as is reasonably necessary when:

- searching of a person, vehicle package or thing in the person's possession or their control
- seizing a volatile substance located during a search
- apprehending and detaining a person the member has reasonable grounds for believing the person is
 - under 18 years of age
 - inhaling or has recently inhaled a volatile substance
 - likely by act or neglect to cause immediate serious bodily harm to themselves or some other person.

Whenever force is used, Use of Force Forms [Form 237-237A] must be submitted, see [VPM 101-4](#)
(s. 60D, *Drugs Poisons and Controlled Substances Act 1981*)

11.3 Justification for search

A search without warrant can be conducted if a police member has reasonable grounds for suspecting that:

- the person is under 18 years of age, and
 - has in their possession or control a volatile substance or an item used to inhale
 - is inhaling or will inhale a volatile substance; or
- other person, irrespective of their age, if the person intends to provide
 - a volatile substance to a person under 18 years of age to inhale, or
 - an item to a person under 18 years of age to use to inhale a volatile substance.

(s. 60E&F, *Drugs Poisons and Controlled Substances Act 1981*)

11.4 Pre-search requirements

11.4.1 *Details of what persons must be informed*

Unless a police member believes on reasonable grounds that the person is unable to understand because of the effects of inhaling a volatile substance or it is otherwise impractical to do so, prior to commencing a search of a person that police member must:

- inform the person of their name, rank and place of duty, and if requested provide this information in writing
- if not in uniform, produce police identification
- inform the person, that although it is not an offence to inhale or possess a volatile substance or an item used to inhale a volatile substance in certain circumstances, police can use reasonable force to -
 - search a person for volatile substance
 - seize a volatile substance or item used to inhale a volatile substance that is in the person's possession or under their control.
- request the person to produce any volatile substance or item used to inhale a volatile substance they have in the possession or control.

(s. 60G&H *Drugs Poisons and Controlled Substances Act 1981*)

11.4.2 *Additional requirements for searches of persons on private premises*

When conducting a search of a person under 18 years of age on private premises:

- if reasonably practicable, advise the person that they may nominate an adult who is on the premises

to be present during the search

- take reasonable steps to ensure the nominated adult is present during the search.
(*r. 6, Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004*)

11.5 Manner of conducting searches

11.5.1 Persons

A member must conduct a search:

- in a manner that affords reasonable privacy to the person being searched
- as quickly as reasonably practicable
- where running hands over the person, if reasonably practicable, by the same sex as the person being searched.
- in one or more of the following ways -
 - passing an electronic metal detection device over or in close proximity to their outer clothing
 - running hands over their outer clothing
 - requesting the person to remove outer clothing, gloves shoes and headgear and searching those items
 - once above clothing removed, may run hands over the clothing or passing an electronic detection device in close proximity to the persons clothing that was immediately under the outer clothing

(*r. 5(1), Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004*)

11.5.2 Vehicle, package or thing

A member may conduct a search by one or more of the following ways:

- examining the exterior and interior of the vehicle, package or thing
- passing an electronic metal detection device over or in close proximity to the vehicle, package or thing

(*r. 5(2), Drugs Poisons and Controlled Substances (Volatile Substances) Regulations 2004*)

11.6 Items detected during search

11.6.1 Request for explanation

Where a volatile substance or an item used to inhale a volatile substance is detected during a search the person must be asked why they are carrying or possessing the substance or item. This request is not required where it is believed on reasonable grounds that:

- the person is unable to understand the request because of the effects of inhaling a volatile substance, or
- it is otherwise impractical to do so.

(*s. 60I, Drugs Poisons and Controlled Substances Act 1981*)

11.7 Seizure, handling and storage of volatile substances and associated items

11.7.1 Criteria for seizure

Police may seize a volatile substance or an item used to inhale a volatile substance detected during a search, where no explanation is given or otherwise, as described in section 11.6.1, and the police member has reasonable grounds for suspecting that the person:

- is under 18 years of age and is inhaling or will inhale a volatile substance

- intends to provide the detected volatile substance to a person under 18 years of age to inhale, or
- intends to provide the item detected to a person under 18 years of age to use to inhale a volatile substance.

(s. 60J&K, Drugs Poisons and Controlled Substances Act 1981)

11.7.2 Return of seized substances or items

When a volatile substance or item is received the following applies:

- the police member who seized or received the substance or item must as soon as practicable after receiving it inform the person of their right to have the volatile substance or item returned
- the person from whom a volatile substance or item was received may, within seven days of it being received, apply for its return at the place of duty of the police member who seized or received the substance or item
- a volatile substance or item may only be returned to a person under 18 years of age if the person is accompanied by a parent or guardian
- make a notation on the Form L19C.

(s. 60N, Drugs Poisons and Controlled Substances Act 1981)

11.7.3 Making safe or disposing of unsafe or hazardous substances or items

Despite the requirement of section 11.7.2, a seized substance or item may be disposed of or made safe if it is believed necessary because of the risk to health or safety in the following circumstances:

- whilst removing it from the place of seizing or receipt - believed necessary by the police member receiving or seizing the substance or item, or
- whilst storing it at receiving police member's place of duty - believed necessary by the receiving police member's Station Manager.

Relevant notations are to be made to the Form L19C.

(s. 60O, Drugs Poisons and Controlled Substances Act 1981)

11.7.4 Destruction of forfeited items

- Any seized substance or item not returned to the person from whom it was seized or received within seven days of seizing is forfeited to the Crown
- The Minister for Health has directed that any forfeited substance or item that has negligible or no resale value may be destroyed (see [Direction by the Minister for Health regarding disposal of volatile substances](#)). Approval for disposal must be given by the Station Manager.
- Other forfeited items are to be referred to the Minister for Health for direction as to the method of disposal.

(s. 60P, Drugs Poisons and Controlled Substances Act 1981)

11.7.5 Handling and disposing of volatile substances

- Care must be taken when handling any volatile substance or item to avoid exposure.
- Most of the items handled will be readily obtained household items. However, if at the scene there is uncertainty advise a Police Communications Centre who will seek further advice.
- Pick up and handle any volatile substance or item using nitrile gloves supplied in the personal protection kits.
- Avoid spillage during transporting, ensure the volatile substance or item is stable and upright in a

container, such as a sealed evidence bag.

- Store volatile substances separately from other property items. Local arrangement should be made regarding appropriate long-term storage.
- Local arrangements should be made regarding the safe disposal of volatile substances and items.
- Dispose of any hazardous substance or item as soon as possible, for further details see section 11.7.3.
- Further information regarding handling and storing volatile substances can be found at the Volatile Substances web page ([Drug and Alcohol Strategy Unit Intranet site](#))

11.8 Apprehension and detainment of persons

11.8.1 Power to apprehend and detain

A member of the police force may apprehend and detain a person if the member has reasonable grounds for believing that the person is:

- under 18 years of age
- inhaling or recently has inhaled a volatile substance, and
- likely by act or neglect to cause immediate serious bodily harm to themselves or some other person.

A person may be apprehended and detained irrespective of:

- whether the person was searched
- any volatile substance or item used to inhale a volatile substance having been seized or produced when requested. See sections 11.4 -11.6

(s. 60L, Drugs Poisons and Controlled Substances Act 1981)

11.8.2 Information required to be given

As soon as practical after apprehending and detaining, the person must be informed that they are:

- not under arrest in relation to any alleged offence, but
- apprehended and detained with the intention of preventing them causing serious bodily harm to themselves or to some other person.

Members are not required to comply with the above requirements if it is believed on reasonable grounds:

- the person is unable to understand the information because of the effects of inhaling a volatile substance, or.
- it is otherwise impracticable to do so

(s. 60L, Drugs Poisons and Controlled Substances Act 1981)

11.8.3 Duration of detainment

A person apprehended under the circumstances described in section 11.8.1:

- must be released immediately on police becoming aware that the person is not under 18 years of age, or
- may only be detained for as long as a member has reasonable grounds for believing that the person -
 - has recently inhaled a volatile substance, and
 - is likely by act or neglect to cause immediate serious bodily harm to themselves or to some other person, and
- must as soon as practicable be released into the care of a suitable person who -

- the member believes is capable of taking care of the detained person, and
- consents to taking care of the detained person (Depending on the circumstances, a suitable person may include the detained person's parents, guardian or another adult family member or an employee of an appropriate health or welfare service. For support and intervention advice telephone the Drug Diversion Appointment line)

If a member, after taking all reasonable steps, is unable to release the detained person into the care of a suitable person, the member must take the action which they reasonably believe is the most appropriate in the circumstance and may:

- release the detained person, or
- continue to detain the person for as long as the member has reasonable grounds for believing that the person -
 - has recently inhaled a volatile substance, and
 - is likely by act or neglect to cause immediate serious bodily harm to themselves or to some other person.

(s. 60M, Drugs Poisons and Controlled Substances Act 1981)

11.8.4 Location of and restrictions during detainment

If it is necessary to bring an apprehended person to a police station, the apprehended person must not be:

- detained in a Police Gaol, police cell or lock-up
- interviewed or questioned in relation to any offence or alleged offence.

Any apprehended person detained at a police station must have their details recorded in the E*Justice Attendance Module, see [VPM 113-2](#)

(s. 60M(6), Drugs Poisons and Controlled Substances Act 1981)

11.9 Recording requirements

Members - in addition to current LEAP and other recording requirements, a member who conducts a search must:

- immediately after or as soon as practicable after the search complete and submit a form L19C. If unable to obtain the name of the person searched a description of the person must be included
- ensure a copy of the form L19C is forwarded to the District Intelligence Unit prior to the completion of your shift.

Station Managers - the person searched is entitled to a copy of the form L19C without charge up to one year after the search is conducted. Where application is made, the Station Manager of the searching member's station is responsible for obtaining a copy of the form L19C from the District Intelligence Unit and providing it, within a reasonable time, to the person searched.

District Intelligence Unit - is responsible for:

- entering relevant details from form L19C onto LEAP
- filing copies of form L19C in a safe and secure location for a period of 12 months after the search is completed
- supplying a copy of form L19C when requested by a Station Manager.

(s. 60Q, Drugs Poisons and Controlled Substances Act 1981)