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## **Entering Residences: Houses, Apartments, Hotels, including SRO Hotels** (Re-issue DB 16-056)

The United States Supreme Court has explained the limitations the Fourth Amendment imposes on law enforcement officers' authority to enter a residence when they do not have a warrant and no exigency exists: *"When law enforcement officers who are not armed with a warrant knock on a door, they may do no more than any private citizen might do. And whether the person who knocks on the door and requests the opportunity to speak is a police officer or a private citizen, the occupant has no obligation to open the door to speak."* *Kentucky v. King*, 131 S.Ct. 1849, 1862 (2011).

Members are reminded that individuals have an expectation of privacy in their residences. Tenants of hotels, including single room occupancy hotels, possess the same constitutional rights and protections related to law enforcement entry into their hotel room.

When entering a person's residence, officers shall comply with the Constitutional mandates of search and seizure law. Under the Constitution, law enforcement officers may enter a residence only if one or more of the following conditions is present **prior to entry**:

- A resident or person with actual or apparent authority over the residence requests that the officers enter.
- A resident or person with actual or apparent authority over the residence consents to the officers entering.
- The officers have an objective reasonable basis for believing that a resident has a search condition as a condition of his/her active parole or probation.
- The officers have a valid search warrant for the residence.
- The officers have a valid arrest warrant for a resident of the premises.
- There are exigent circumstances that warrant immediate entry, such as the need to respond to an imminent threat to the safety of officers or other persons, or to prevent the imminent destruction of evidence (this "destruction of evidence" condition does not apply to infractions).
- The officers acting as community caretakers unrelated to criminal investigations reasonably believe: (a) someone is in need of medical assistance, (b) there is danger of physical harm to an occupant, (c) a person is unable to care for themselves, (d) to resolve a conflict between occupants when officers have reason to believe that one of the parties to the dispute is in danger, or (e) to provide services on an emergency basis.
- The officers are in fresh pursuit or hot pursuit of a suspect.
- When officers have probable cause that there is evidence of a crime, and believe the evidence may be lost or destroyed if entry is delayed. The entry is for the purpose of securing the residence, freezing the scene, while investigators gain a warrant.

**PASS KEYS:** Officers shall not enter apartments or hotel rooms with a pass key unless one or more of the above conditions are met.

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**PROPERTY MANAGERS:** Officers may not ask a property manager or other building representative to use a pass key to provide officers entry to an apartment or hotel room unless one of the above conditions is met. Further, a property manager or other building representative may not request or give consent on behalf of a resident for officers to enter that resident's lawfully occupied apartment or hotel room.

**CURTILAGE:** Well-defined areas immediately surrounding a dwelling have a higher expectation of privacy that require a warrant prior to entry. (i.e. an enclosed staircase, fenced in area, defined porch, driveways). Recently, the United State Supreme Court has decided curtilage cases further defining those areas. The most recent case held a warrantless vehicle search in a driveway is unlawful. (*Collins v. Virginia* (2018) 584 U.S.) Another recent case held a warrantless entry of a porch to bring a narcotics detecting canine to the front door is unlawful. (*Florida v. Jardines* (2013) 569 U.S. 1). Therefore, an exception to the warrant requirement listed above is necessary prior to entering the curtilage.

**SEARCHES:** Any search based on consent must comply with Department Bulletin 17-083.

  
WILLIAM SCOTT  
Chief of Police

*Per DB 17-080, sworn members are required to electronically acknowledge receipt and review of this Department Bulletin in HRMS.*