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| **Privacy in Lockers and Personal Property Brought into the Workplace** | Related Policies | |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline. It is expected that under emergency conditions personnel may deviate from these requirements when in their experience and judgment such deviation is warranted.* | | |
| Applicable KY Statutes: | | |
| OSHA: | | |
| NFPA Standards: | | |
| Date Implemented: | | Review Date: |

1. **Purpose:** The purpose of this policy is to establish the department’s right to conduct searches of lockers and personal property brought into the workplace. The department is responsible for safety and well-being of all personnel in the workplace, and the safety and well-being of the public. In the discharge of those responsibilities, the department may, from time to time, need to investigate the presence of illegal or improper items in the workplace, including those that pose a hazard to the safety and good order of the department.
2. **Policy:** The department reserves the right to conduct searches of fire station lockers as well as any personal property brought into the workplace at any time.
3. **Definitions**

**Prohibited items:** Includes illegal drugs; alcoholic beverages; prescription drugs or medications not used or possessed in compliance with a current valid prescription; explosive devices; fireworks; hazardous materials; items of an obscene, harassing, demeaning, threatening or violent nature; and any other item the possession of which violates the law and/or department policy.

1. **Procedure**
2. Members are prohibited from bringing prohibited items into the workplace.
3. Lockers assigned to members of the department are the property of the department. At no time does the department relinquish its exclusive control of its lockers. The department assigns lockers to members for the member' convenience and temporary use. Members are to use lockers exclusively to store work-related clothing, supplies and personal items such as outer garments, footwear, grooming aids, spare clothing, or lunch.
4. The fire department reserves the right to examine and inspect any and all lockers, desks, cabinets, drawers, files, books, closets, trunks, luggage, bags, purses, backpacks, brief cases, computers, laptop computers, electronic memory devices, PDAs, department issued cellular telephones, electronic books, or similar devices that belong to the fire department, or that belong to members that are brought into the workplace. Members are advised that they have ***no expectation of privacy*** in any of the items and locations mentioned in this paragraph, and that any item of personal property brought into a fire station or onto fire department property may be examined, inspected or searched at any time. The failure of the department to exercise its rights under this section, shall not constitute a waiver of these rights.

**Editor’s Note:** Not all fire departments will want to extend their right to search a member’s personal property to the extent that this policy allows. The policy as written goes about as far as the US Constitution allows. Some may find it to be offensive and an invasion of privacy.

Fire chiefs should use their best judgment about the advisability of adopting the language as is, or limiting it – such as to searches of lockers only, or perhaps lockers, desks and files. The scope of the areas and items that can be searched is up to the individual fire department.

One caveat: recent US Supreme Court case law has recognized an heightened expectation of privacy in the contents of a person’s cellphone (*Riley v. California*). The Court made references to searches of cellular phones as implicating privacy interests that are equal to or greater than one’s home. For that reason personally owned cellular telephones have been removed from the listed items in Paragraph C. Fire departments that want to extend the right to search an employee’s personal cellphone should check with local legal counsel before adding it into Paragraph C.

For those departments concerned about automobiles, this policy *can* be extended to allow searches of a member’s personal automobile if brought *into a fire station* or *brought on to fire department property*. The following language should be inserted into Paragraph C above between “brief cases” and “computers”. Select the appropriate provision:

1. “personal vehicles while parked inside a fire station”
2. “personal vehicles while parked on fire department property”