Policy: 1402.9, Search Warrants
Effective Date: 11/5/2026
Distribution Group: All Employees
Review Responsibility: Investigative Services Bureau Commander
Accreditation Chapter(s): 15, 17
Chief of Police: Eric D. Smith

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I. PURPOSE

This directive establishes the protocol for the execution of search and seizure warrants.

II. POLICY

It is the policy of the Orlando Police Department to adhere to all applicable search and seizure laws while giving the utmost consideration to the safety of citizens and officers to prevent the destruction of contraband or evidence.

III. DEFINITIONS

None

IV. PROCEDURES

1. OBTAINING A SEARCH AND SEIZURE WARRANT

A search and seizure warrant may be obtained under the conditions established in Florida Statutes 933. Application for a search and seizure warrant must be made in the form of a sworn affidavit that will be reviewed by a judge who, upon a finding of probable cause, will issue a search and seizure warrant. The protocol for obtaining and executing of search and seizure warrant is as follows:

a. An investigation is conducted to determine if criminal activity is taking or has taken place.
b. The decision is made that a search and seizure warrant will aid the investigation.
c. The criteria outlined in Fla. Stat. 933 are met.
d. The lead officer prepares an affidavit for a search and seizure warrant, describing the location to be searched, the items to be seized, and establishing probable cause.
e. The lead officer prepares a search and seizure warrant, in duplicate, describing in detail the location to be searched, the items to be seized, and an inventory and return form on which the items seized will be listed.
f. The lead officer's sergeant reviews and approves the search and seizure warrant and affidavit.
g. The lead officer's lieutenant reviews and approves the search and seizure warrant and affidavit.
h. The Police Legal Advisor reviews and approves the search and seizure warrant affidavit and warrant. (In an emergency, the affiant's lieutenant may approve a review by an Assistant State Attorney.)
i. The affiant (normally the lead officer) presents the affidavit for the search and seizure warrant and the search and seizure warrants (search and seizure warrant issued in duplicate) to a judge having jurisdiction where the place, vehicle, or thing to be searched may be located.
j. The affiant affirms the facts contained in the affidavit and signs the affidavit in the presence of the judge.
k. The judge, upon a finding of probable cause, signs the affidavit for the search and seizure warrant, and the search and seizure warrants, returning all of the original documents to the affiant.
l. The affiant is now in possession of a valid search and seizure warrant.

2. PREPARATION

The Affiant/lead case agent will conduct an operational briefing before the execution of any search and seizure warrant. All officers involved in the execution of the search and seizure warrant will attend the briefing. The Affiant/lead case agent will ensure that all officers involved in the execution of the search and seizure warrant are familiar with the provisions of this directive. Information to be covered during the operational briefing includes, but is not limited to, the following:

a. Case investigative history

b. Floor plan of the target structure
c. Photographs and/or video of the targeted structure
d. Criminal history on all known subjects possibly present
e. Photographs of subjects possibly present
f. Statement as to the existence of criminal charges
g. Statement as to the presence of children, and their approximate ages, if known
h. Statement as to the presence of elderly, and their approximate ages, if known
i. Statement as to the presence of animals
j. Statement as to the presence of weapons
k. Statement as to where items to be searched for may be located if known
l. Statement as to what radio channel will be used for the detail

If the SWAT Team is used to execute the search and seizure warrant, the SWAT Team will conduct a tactical briefing. Only current members of the SWAT Team shall be permitted to attend this tactical briefing. A Deputy SWAT Team Commander will attend both the SWAT tactical briefing and the operational briefing that will follow. The SWAT Team Deputy Commander shall have overall command of the SWAT Team's tactical approach and the plan of execution related to the search and seizure warrant.

Immediately following the SWAT Team tactical briefing, the lieutenant/section commander responsible for the investigation will ensure that all involved members, including, but not limited to, SWAT, CNT, Patrol, and members providing perimeter support, attend an operational briefing. This briefing will be held to reduce the possibility of any miscommunication of vital information between the SWAT Team and other involved personnel.

3. EQUIPMENT

The sergeant/corporal/ASL supervising the overall investigation will ensure the necessary equipment is serviceable and available for use. Necessary equipment includes the following:

a. Body armor for all operational officers, i.e., entry officers and perimeter officers
b. Hit kits containing all necessary supplies
c. Entry tools, i.e., sledgehammer, pry tool, and battering ram
d. Weapons
e. Special vehicles, as needed
f. Body-Worn Camera
g. Digital recorder
h. Cameras: video and digital, as needed
i. Flashlights for all entry officers

NOTE: No facial coverings, i.e., ninja or ski-type masks, shall be worn during the entry phase.

4. NOTIFICATION

Before the execution of a search and seizure warrant, the sergeant/corporal/ASL coordinating the investigation must make certain notifications.

Notifications can be made in person or by telephone. They can be made by radio only as a last resort. The time and place of the execution will not be disclosed until moments before the execution.

4.1 WITHIN JURISDICTION

Before the execution of a search and seizure warrant, the sergeant/corporal/ASL coordinating the investigation will notify the following:

a. Watch Commander
b. Communications Supervisor
c. The Supervisor of the unit responsible for investigating the specific crimes listed in the search warrant being executed. For example, the Special Victims Unit's Sergeant would be notified if the search warrant is seeking evidence related to the investigation of a sex crime.
d. Lead officer's bureau commander if the warrant will be executed by SWAT
e. Case Explorer
f. Orlando Fire Department (SWAT Warrant only)
g. CNT Commander (SWAT Warrant only)

4.2 OUTSIDE JURISDICTION

Before the execution of a search and seizure warrant, the sergeant/ASL coordinating the investigation will notify the following:

a. OPD Watch Commander
b. OCSO Watch Commander
c. Metropolitan Bureau of Investigation supervisor (if narcotics or human trafficking related)
d. Communications supervisor
e. The Supervisor of the unit responsible for investigating the specific crimes listed in the search warrant being executed. For example, the Special Victims Unit's Sergeant would be notified if the search warrant is seeking evidence related to the investigation of a sex crime.
f. Lead officer's bureau commander if the warrant will be executed by SWAT
g. Case Explorer

5. NO-KNOCK WARRANTS PROHIBITED

The entry phase of any search warrant execution is preceded by a member of the entry team knocking on an entry door to the structure and announcing the police purpose and authority, e.g., "Police officers with a search warrant." OPD officers are prohibited from requesting or performing "no knock" warrants. Search warrant affidavits prepared by OPD shall not seek or apply for "no knock" warrants. OPD officers must always knock and announce, as contemplated by Florida Statute 933.09.

5.1 OTHER AGENCIES OBTAINING "NO-KNOCK" WARRANTS

If a different agency obtains a search warrant and requests assistance from OPD in executing the warrant, OPD will decline to participate in any entry made without an announcement preceded by a knock.

6. EXECUTION

The sergeant/corporal/ASL coordinating the investigation will facilitate the gathering of resources necessary to execute the warrant within the requirements of this directive.

6.1 UNIFORMED PRESENCE

In all search and seizure warrant executions inside the city, a uniformed officer will accompany the search warrant team. If the search and seizure warrant is to be executed within another jurisdiction, every effort will be made to have a uniformed member of that jurisdiction present at the time of execution.

The purpose of the uniformed presence is to ensure that the occupants are aware of the police identity. Dependent upon the circumstances, the uniformed officer may be used immediately or held in reserve.

6.2 APPROACH

Typically, the initial approach to the structure will be covert, providing an advantage of surprise to the execution team.

6.3 IDENTIFICATION

Once they have completed the initial covert approach to the structure, members of the entry team shall wear the police badge conspicuously on their outer garment or clothing, clearly identifying them as police.

6.4 DAYLIGHT EXECUTION

All search and seizure warrants will be executed during daylight hours unless operational considerations necessitate nighttime execution. Nighttime executions must be expressly authorized in the search and seizure warrant and approved by the division commander or acting division commander responsible for the investigation.

7. DEVIATIONS

The sergeant/corporal/ASL in charge of the investigation may deviate from the provisions contained in Sections 6.1, 6.2, and 6.3 when the following applies:

a. The search and seizure warrant is being executed on a secured vehicle.
b. The search and seizure warrant is being executed on a secured scene or an unoccupied structure.
c. Any necessary deviation is approved by the division commander or acting division commander responsible for the investigation.

8. ENTRY

8.1 WITHOUT FORCE

The initial approach to the structure will be covert. The sergeant/corporal/ASL coordinating the investigation will assign a member of the execution team to “knock and announce”. This member will announce the police purpose and authority as required by statute. The announcement will be “Police Officers with a search warrant, open the door.”

8.2 FORCED ENTRY

a. All forced entries to structures shall only be executed by personnel from SWAT or the Drug Enforcement Division with the Division Commander's approval.
b. Should entry without force fail, the announcing officer shall repeat the police purpose and authority as stated above. After waiting a reasonable period of time, force shall be used to gain entry to the structure.

8.3 ENTRY UNRELATED TO SEARCH WARRANT

When the circumstances allow for warrantless entry, such entry is governed by the search and seizure policy, along with all applicable legal bulletins, written directives, and special notices.

9. POST ENTRY

All occupants will be secured, if necessary, and escorted to a central location. The initial location of all occupants will be documented by the members of the entry team before the entry team withdraws from the scene. Field Interview Reports, photographs, and record checks should be completed on all persons present.

9.1 READING OF THE SEARCH AND SEIZURE WARRANT

Once the occupants are grouped in a central location, the search and seizure warrant will be read aloud and will be captured on BWC. If the structure is unoccupied, the warrant does not need to be read aloud.

If the person in control of the premises can read, a copy of the warrant can be provided to them without reading it in its entirety. The BWC recording should include the subject reading aloud a portion of the warrant to the case agent.

9.2 SEARCH ASSIGNMENTS

The sergeant/corporal/ASL or lead investigator in charge of the investigation will make search assignments to individual officers based on the scope and authority of the search and seizure warrant. Officers will systematically and thoroughly search their assigned areas for the items named in the search and seizure warrant, while at the same time being cognizant of contraband or evidence related to other criminal acts which may be discovered during the search.

Additional contraband items whose incriminating nature is immediately apparent may be seized without an additional warrant IF it is in plain view or otherwise in a place where the scope of the search warrant authorizes. If an item is not listed in the search warrant as the evidence sought, then moving an item (such as a laptop or television) to obtain and run its serial number constitutes a search. If you have additional facts that provide probable cause that an item is stolen but you cannot see the serial number without moving it, a new search warrant would be required before moving the item to obtain the serial number.

Items seized will be documented, noting their location and the name of the seizing officer. Items seized should also be photographed in their original condition if possible. Once documented and photographed, the items will be brought to the Evidence Custodian for further handling.

9.3 EVIDENCE CUSTODIAN

The sergeant/corporal/ASL or lead investigator in charge of the investigation will facilitate arrangements for an Evidence Custodian. The Evidence Custodian may be a Crime Scene Investigator or a member of the execution

team assigned to perform the duties of the Evidence Custodian. The Evidence Custodian will be responsible for the following:

a. Photographing and/or video-recording the structure before the search.
b. Photographing and/or video-recording any damage caused by the entry.
c. Photographing and/or video-recording any damage that could be claimed by the owner.
d. Photographing and/or video-recording evidence.
e. Tagging all evidence.
f. Completing the evidence log and search and seizure warrant inventory form.
g. Photographing and/or video-recording the structure post-search.

9.4 INVENTORY AND RETURN

Each item seized under the search and seizure warrant shall be listed on the inventory and return form. Items not listed in the warrant but seized in plain view during the search shall be separately inventoried.

9.5 LISTING SEIZED ITEMS

All items seized will be given an identification number, i.e., Q-1, Q-2, Q-3, etc. By giving each item an identification number, cross-referencing can be done between the evidence log, inventory and return form, and evidence receipts.

9.6 RETURN OF SEARCH AND SEIZURE WARRANT TO THE COURT

The sergeant/corporal/ASL or lead investigator in charge of the investigation will ensure that the original search and seizure warrant, original exhibits (if any), and the original inventory and return form are filed with the Clerk of the Circuit Court, Felony Division within ten days of the issuance of the search and seizure warrant.

9.7 ISSUANCE IN DUPLICATE

The original search and seizure warrant and the duplicate will be photocopied after they have been approved and signed by a judge. A photocopy of the search and seizure warrant along with a copy of the inventory and return form will be left with the person named in the warrant or, in the absence of a such person, with some other person in charge of or living on the premises. If no person is present, the copies shall be left in a conspicuous location.

10. RESPONSIBILITIES

10.1 LEAD OFFICER

The lead officer's responsibilities include the following:

a. Conduct and direct the course of the investigation.
b. Prepare a search and seizure warrant affidavit and warrant per Section 1 of this directive.
c. Make a copy of the search and seizure warrant and inventory form.
d. Obtain video and/or photographs of the target structure.
e. Obtain photographs and criminal history of all known subjects possibly at the target structure.
f. Obtain tactical intelligence on the target structure.
g. Make necessary drawings (floor plan, route of travel, etc.) for operational briefing.
h. Fully brief sergeant/corporal/ASL.

i. Prepare an operational plan for presentation to the sergeant/corporal/ASL.
j. Conduct a thorough operational briefing covering all areas mentioned in Section 2.

10.2 SERGEANT, CORPORAL, OR ASL

The sergeant/corporal/ASL in charge of coordinating the investigation will:

a. Supervise the investigation.
b. Review and approve the affidavit for search and seizure warrant and the search and seizure warrant.
c. Review and approve the operational plan, which will be presented to the lieutenant.
d. Inspect the affidavit and search and seizure warrant, ensuring that a judge has signed them.
e. Make all notifications required in Sections 1 and 2.
f. Ensure that the equipment listed in Section 3 is readily available.
g. Facilitate SWAT Team and Crisis Negotiation Team involvement, if necessary.
h. Personally verify the address and description of the target structure.
i. Arrange for surveillance, if necessary.

10.3 LIEUTENANT/SECTION COMMANDER

The lieutenant/section commander will do the following:

a. Review the affidavit for the search and seizure warrant and the search and seizure warrant before the Police Legal Advisor or Assistant State Attorney.
b. Review and approve the operational plan.
c. Ensure attendance by all involved members at the operational briefing.
d. Make recommendations and/or adjustments to entry plans consistent with safety concerns.
e. Monitor and be present at the scene of the execution, remaining until the scene is considered secure

11. SPECIAL WEAPONS AND TACTICS TEAM (SWAT)

The SWAT Team shall execute search and seizure warrants under the following conditions:

a. There is a high expectation of violence because of the number of suspects.
b. There are weapons known or reasonably believed to be present.
c. Subjects possibly present have a violent history.
d. The SWAT Team Commander and the lieutenant/section commander in charge of the investigation agree on the necessity for the use of the SWAT Team.

When the SWAT Team is used, the SWAT Team Supervisor in charge of executing the search and seizure warrant will be fully briefed by the sergeant/corporal/ASL or lead investigator in charge of the investigation. The SWAT Team Supervisor will be provided with any documents, intelligence, or assistance of any kind he/she may request.

The target structure will be placed under surveillance for two hours, if possible. Surveillance may be from a fixed post, drive-by, drone, or controlled buy just before the execution.

12. CRISIS NEGOTIATION TEAM (CNT)

One negotiator from the Crisis Negotiation Team will be assigned as the primary negotiator. The primary negotiator will be on-duty, monitoring the assigned radio channel of the operation, and be ready to respond to the target location if needed. Once on scene, the primary negotiator will be responsible for assessing the need for additional CNT resources.

V. FORMS AND APPENDICES

None

VI. REFERENCES

This policy rescinds Policy and Procedure 1402.8

Related Policies: Not Applicable

Related Laws: Florida Statute Chapter 933