

Cocoa Beach Police Department

Standard Operating Procedure



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| Effective Date: December 24, 2020 | Replaces: Amends: May 15, 2017 | Number: 207.02 |
| Subject: Arrest and Search Warrant Acquisition and Enforcement | | Re-evaluation Date: |
| Distribution: ALL PERSONNEL | Related Standards: 15.08M | |

This order consists of the following numbered sections:

1. Purpose
2. Scope
3. Policy
4. Definitions
5. Arrest Warrant and Procedures
6. Search Warrant and Procedures
7. Procedures for Service
8. References

1. **PURPOSE**

To establish guidelines for the drafting and execution of a search warrant and/or an arrest warrant.

2. **SCOPE**

This policy applies to all sworn Police Department personnel.

3. **POLICY**

It is the policy of the Cocoa Beach Police Department that a warrant shall be sought, issued and executed in compliance with the requirements, guidelines and procedures set forth by the Fourth Amendment to the Constitution of the United States and by the laws of the State of Florida.

4. **DEFINITIONS**

- A. Arrest Warrant – A written order signed by a judge lawfully directing law enforcement to take an individual into custody.
- B. BCSO – Brevard County Sheriff's Office
- C. CID - Criminal Investigations Division
- D. FSS – Florida State Statute
- E. “No Knock” – Enforcing a warrant without first identifying yourself
- F. SAO – State Attorney's Office.
- G. Search Warrant – A written order signed by a judge lawfully directing law enforcement personnel to search a specific location for specific contraband and/or evidence for seizure.
- H. Search Warrant Return- A sworn affidavit provided to the Clerk of the Courts by the Detective who executed the Search Warrant on a specific location. This return copy must include a detailed list of what was seized from the area searched and must be provided to the Clerk of Courts within 10 days of the warrant being executed.

5. **ARREST WARRANT AND PROCEDURES**

The purpose of obtaining an Arrest Warrant is to lend additional judicial weight and approval to the case by having a judge review the probable cause prior to an arrest. The Arrest Warrant is made up of two parts; the Probable Cause Affidavit and the Warrant Application. The Probable Cause Affidavit provides facts and circumstances establishing probable cause and reason for requesting an Arrest Warrant. The Warrant Application is for the judge to review and authorize the officer to enforce the warrant and provides the bond amount for the subject when taken into custody. The procedure for obtaining an arrest warrant is as follows:

- A. The investigating officer or detective completes the investigation to the point that sufficient probable cause exists for arrest.

- B. The investigating officer or detective then completes an Arrest Warrant Probable Cause Affidavit with the case report number listed on each page of the affidavit.
 - C. The investigating officer then completes the Arrest Warrant Application with the case report number listed on each page of the Application. A section for a bond amount will then be placed on the bottom of the Arrest Warrant Application above the Judge's signature section.
 - D. Once both documents are completed by the investigating officer or detective they will be reviewed by the Supervisor.
 - E. After Supervisor review, the warrant will then be sent to the SAO for review. If the Arrest Warrant Application is being sent for review after normal business hours, coordination with the on-call SAO may be necessary. All Arrest Warrant Applications will be reviewed by the SAO prior to judicial review.
 - F. After review and approval of the Arrest Warrant Application by the SAO, the investigating officer will either submit the affidavit and application electronically to the judge listed on the Brevard County EWarrants website or respond to the Brevard County Viera Complex to have the Arrest Warrant Application reviewed and signed by a Circuit or County Judge. If after normal business hours, a Circuit or County Judge will be contacted on the county's on call cellular phone and notified that you will be uploading an affidavit and application for their review to the EWarrants website. If the officer or detective is unable to reach the judge by phone they may respond to a judges place of residence to have the warrant signed.
 - G. After obtaining a judge's signature, the warrant will be brought to the Clerk of the Courts Office so it can be entered into the Clerk's database and forwarded to BCSO Warrants Division. A certified copy will be provided to the investigating officer. If an Arrest Warrant is signed by a Circuit or County Judge after normal business hours, the applicant can call the Brevard County Sheriff's Office Communications Center/Teletype to have the warrant entered into NCIC. The warrant will then be brought to the clerks office on the next business day to be entered into their database.
 - H. If a person is arrested as a result of an Arrest Warrant Application, the arresting officer may only search the immediate area in which the arrestee had immediate control, unless:
 - 1. A Search Warrant on the arrest location exists and is present, or
 - 2. The officer receives consent by the arrestee, or
 - 3. An actual and continuing threat exists to the officers posed by an arrestee, or
 - 4. A need exists to preserve evidence related to the crime and to prevent tampering by the arrestee.
 - I. The Arrest Warrant shall be attached to the case report. A 923.01 does not need to be completed as the Arrest Warrant is the arrest affidavit.
6. **SEARCH WARRANT AND PROCEDURES**

The purpose of a Search Warrant is to establish probable cause to enter and search a place protected by the Fourth Amendment of the United States Constitution. Like the Arrest Warrant, the Search Warrant comes in two types of documents; the Probable Cause Affidavit and the Warrant Application. The Probable Cause Affidavit provides the officer's reasons for requesting a search of a specific place. The Warrant Application is for the judge to authorize the officer to enforce the Search Warrant. The procedure for obtaining a Search Warrant is as follows:

- A. The investigating officer or detective completes the investigation to the point that sufficient probable cause exists to merit a Search Warrant.
- B. On the Search Warrant Probable Cause Affidavit, the investigating officer or detective will provide a clear description of the object and location to be searched to include addresses, type of construction of the property, distinguishing characteristics, make, model, or serial number. If possible, take a picture of the location or object. Google Earth or Yahoo Maps will not be used solely for this purpose but can assist in this process. If the object of the warrant is a vehicle, provide a clear description to include the make, model, color, tag, VIN, etc., and give its location if known. If the vehicle is currently in the custody of Law Enforcement, state on the Probable Cause Affidavit that the vehicle has been impounded. The description should be detailed enough that anyone could go directly to the location and all areas described by only using the directions on the completed warrant. (CFA 15.08MA)
- C. The Probable Cause Affidavit should include the officer's training and experience they have in the particular area for which the warrant is being sought. The case report number must be listed on each page of the Affidavit. (CFA 15.08MA)
- D. The investigating officer then completes the Search Warrant Application with the case report number listed on each page of the Application. (CFA 15.08MA)
- E. Once both documents are completed by the investigator they will be reviewed by the Supervisor prior to being submitted to the SAO. (CFA 15.08MB)

- F. If the Search Warrant Application is being sent to the SAO for review after normal business hours, coordination with the on-call SAO may be necessary. All Warrant Applications will be reviewed by the SAO prior to judicial review. (CFA 15.08MB)
- G. After review and approval of the Search Warrant Application by the SAO, the investigating officer will either submit the affidavit and application electronically to the judge listed on the Brevard County EWarrants website or respond to the Brevard County Viera Complex to have the Search Warrant Application reviewed and signed by a Circuit or County Judge. If after normal business hours, a Circuit or County Judge will be contacted on the county's on call cellular phone and notified that you will be uploading an affidavit and application for their review. If the officer or detective is unable to reach the judge by phone they may respond to a judge's place of residence to have the warrant reviewed and signed. (CFA 15.08MB)
- H. After obtaining a judge's signature, the warrant shall be executed within 10 days of issuance. A copy of the Search Warrant shall be left at the place where the warrant was executed (CFA 15.08MBC)
- I. During the actual search at the warrant location, any and all areas named in the warrant may be searched as long as the items searched for and named in the warrant could possibly be hidden therein. Contraband discovered in plain view during the search may be seized even if those item(s) were not named in the warrant. (CFA 15.08MD)
- J. A Property Receipt will be completed on anything removed from the Search Warrant's location; a copy will be attached to the Search Warrant Return. The original warrant and Search Warrant Return shall be brought to the Clerk of the Courts Office within 10 business days. In addition, this information will be attached to a Search Warrant Return to be filed at the Clerk of Courts Office at a later date. It is at that time the warrant can be entered into the Clerk's database. (CFA 15.08MEF)
- K. Per FSS 933.08- In all cases, a warrant must be executed/served only by officers or detectives mentioned in the affidavit and by no other person except in aid of the officer/detective requiring it, with a requesting person being present and acting in the warrant's execution. (CFA 15.08MC)
- L. Per FSS 933.10 or 933.101 – Based on the exigencies of the occasion and with express authorization in the warrant, a warrant may be served / executed at any time of day or night or on Sunday. (CFA 15.08MC)
- M. Per FSS 933.11 - A copy of the warrant shall be delivered to the person named in the warrant or to some person in charge of the property or living on the premises. Furthermore, a written inventory of all property taken and a receipt for the same in specific detail shall be given to one of the above described people or left at the premises. (CFA 15.08MC)(CFA 15.08ME)
7. **PROCEDURES FOR SERVICE**
Pursuant to FSS 933 and this policy, the following procedures for service shall apply:
- A. FSS 933.09 - Any door, window or any part of a house or anything therein may be broken open in order to successfully execute a warrant, after due notice of the officer's authority and purpose after admittance or access is refused. (CFA 15.08MC)
- B. In reference to a "No Knock" Warrant, if approved by the SAO and Circuit or County Court Judge, contact will be made with the Staff and Administrative Services Major or designee on the best way to serve / enforce the warrant.
8. **REFERENCES**
The Florida Senate (2020). F.S.S. 933.00. Retrieved December 10, 2020 from:
<https://www.flsenate.gov/Laws/Statutes/2020/Chapter933>
United States Senate (2016). United States Constitution, Fourth [Amendment](#). Retrieved April 28, 2017 from:
https://www.senate.gov/civics/constitution_item/constitution.htm



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