


Fort Collins Police Services Policy Manual

 FORT COLLINS POLICE	POLICY	322
	TITLE	Search and Seizure

322.1 PURPOSE AND SCOPE

Both the Federal and State Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Agency personnel to consider when dealing with search and seizure issues.

322.2 POLICY

It is the policy of the Agency to respect the fundamental privacy rights of individuals. Officers of this Agency will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this Agency will comply with relevant federal and state law governing the seizure of persons and property.

In accordance with the Training Policy, the Agency will provide relevant and current training to officers as guidance for the application of current law, local community standards, and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

322.3 SEARCHES

- (a) The U.S. Constitution generally provides that a valid warrant is required for a search to be valid. There are, however, several exceptions that permit a warrantless search.
- (b) Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:
 - 1. Valid consent,
 - 2. Incident to lawful arrest,
 - 3. Legitimate community caretaking interests,
 - 4. Vehicle searches under certain circumstances,
 - 5. Exigent circumstances,
 - 6. Evidence or contraband found in plain view,
 - 7. Certain searches of persons after reasonable suspicion; and
 - 8. The application of Police Narcotics Detection Dogs.
- (c) Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of found or abandoned property, and observations of activities and property located on open public areas.
- (d) Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each employee of this Agency is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

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- (e) Whenever practicable, officers are encouraged to contact a supervisor or the City Attorney or the District Attorney to resolve questions regarding search and seizure issues prior to electing a course of action.

322.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Officers will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) To minimize the need for forcible entry to a premise, an attempt should be made to obtain keys, combinations, or access codes when a search of locked property is anticipated.
- (e) Arrest and search warrants may be served by sworn officers only, though non-sworn personnel may provide support and assistance. Officers must comply with all statutory provisions, case law, and policies in effecting and serving arrest and search warrants.
 1. Unless specifically authorized by a judge or magistrate, search warrants will be served between the hours of 7:00 am and 7:00 p.m. (C.R.S. 16-3-305) .
 2. Refer to MAV policy 446 for body camera requirements during the service of warrants.
 3. All search warrants except blood draw warrants must be reviewed by the District Attorney's Office prior to the judicial review.
 4. The Court E-Warrant Checklist must be completed and submitted for all search and arrest warrant submissions through the online court portal.

322.4.2 RISK ASSESSMENT

Before serving a search or a pre-planned arrest warrant, the case officer or their designee shall complete the High-Risk Warrant Matrix. The matrix is a series of questions that help officers and supervisors identify what resources are appropriate for the safe service of their warrant. Some warrant or arrest situations require mandatory service by the Agency SWAT Team, some require a consultation with a SWAT team leader, and some may be appropriate for any officer and their team to serve.

Officers must consult with a supervisor, and supervisors are encouraged to request a SWAT consultation whenever there are questions or concerns about the service of a search or arrest warrant, regardless of the matrix outcome.

After completing the matrix, the officer will proceed in the following ways:

- (a) Notify a supervisor of the results of the risk assessment..

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- (b) Identify the appropriate resources to safely serve the warrant based on the totality of the circumstances and after consultation with their supervisor and a SWAT Team Leader (case dependent).
- (c) Complete an operational plan.
 - 1. If SWAT resources are used, SWAT will develop the operations plan for the service of the warrant with input from the case officer. The case officer is responsible for developing the investigative portion of the operations plan.
 - 2. The SWAT Commander must receive and review the affidavit and warrant when SWAT conducts the service.
- (d) If SWAT is not involved in the service of the warrant, a lieutenant will receive and review the affidavit, warrant, and operational plan.
- (e) In all cases, a supervisor will be present at the briefing and during the service of the warrant.
- (f) Conduct a briefing in preparation for the service of the warrant.
 - 1. Personnel assigned to participate in the service of the search warrant shall receive a briefing by the case officer, SWAT team leader, or their designee prior to the service of the warrant. Ideally, all involved personnel will participate in a single briefing.
- (g) Serve the warrant.

322.5 DOCUMENTATION

Officers are responsible to document any search of the premise and to ensure that required reports contain, at minimum, documentation of the following:

- (a) Reason for the search.
- (b) Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys).
- (c) What, if any, injuries or damaged occurred.
- (d) All steps taken to secure property.
- (e) The results of the search, including a description of any property or contraband seized; and
- (f) The Return of service for a search warrant.

Officers shall add a copy of the operational plan (including the Risk Assessment Matrix) to the case file.

Supervisors shall review reports to ensure accuracy, that actions are properly documented, and that current legal requirements and Agency policies have been satisfied.