

WEST PALM BEACH POLICE DEPARTMENT

IV-7 SEARCH WARRANTS

EFFECTIVE: 01/01/2005

CALEA Standards: N/A

CFA Standards: 18.13

I. POLICY: The purpose of this procedure is to establish guidelines for obtaining and executing search warrants. When an officer believes that probable cause exists to search a particular place or object a search warrant, issued by a competent authority, should be sought. The warrant must be executed in such a way that the safety of the assigned officers and the integrity of the Department is assured while also preserving the rights of the suspects.

II. DEFINITIONS:

A. Search Warrant - A court order signed by a judge, supported by oath or affirmation, particularly describing the place to be searched and the person or object to be seized.

B. High Risk Warrant Execution- A warrant executed at a location where there is a well-founded expectation of danger to the members involved; i.e., armed suspects, aggressive animals, explosive devices, etc., requiring the SWAT Team for tactical entry.

C. Low Risk Warrant Execution- A warrant executed at a location where there is no anticipated danger to the involved members: i.e., vehicle, suitcase, certain residences and businesses, etc., requiring execution by members of the affected division.

D. Consent to Search- Persons giving consent to search their home, vehicle, personal property, etc., should be asked to complete a "Consent to Search" (Appendix A) form. Officers are required to advise the consenting party they can rescind their consent to the search at any time. When necessary, members will inform the consenting party of the Miranda warning. If there is any question about the ability of the consenting party to give informed consent, a search warrant should be obtained.

III. DRAFTING THE WARRANT:

A. Officers will obtain a search warrant pursuant to applicable Florida State Statutes.

B. The officer will gather all the pertinent information regarding the evidence or contraband being sought, including, but not limited to,

1. Who will be conducting the search (affiant);
2. What is to be searched (house, car, suitcase, etc.);
3. The owner of the property, if known;
4. Type of crime; and
5. Establish the probable cause in the search warrant affidavit.

C. An "Affidavit and Application for Search Warrant" (Appendix B) will be completed. The officer must not sign this form until it is presented to the reviewing judge. If the judge finds that the probable cause is sufficient the officer will sign the form in the presence of the judge.

D. A "Search Warrant" (Appendix C) will be completed.

E. If the search warrant is executed outside the jurisdiction of the West Palm Beach Police Department, the lead investigator and/or affiant will coordinate the application for, and execution of, the search warrant with an officer of the jurisdiction involved.

IV. OBTAINING A SEARCH WARRANT:

A. When the "Affidavit and Application for Search Warrant and the Search Warrant" is completed, the affiant will:

1. Notify the Intake Unit of the State Attorney's Office that a search warrant application has been completed and determine if the Assistant State Attorney wishes to review it for legal sufficiency.
2. After normal business hours, the officer can reach the on-call Assistant State Attorney through the switchboard operator at the Palm Beach County Sheriff's Office.
3. After the documents have been reviewed by the Assistant State Attorney for legal sufficiency the ASA will contact the duty judge for the member.
4. The judge will review the Affidavit and Application for Search Warrant and the Search Warrant itself.
 - a. Affiants are required to have their police identification with them when the search warrant is being reviewed by the judge.
 - b. If the judge agrees that probable cause exists, the judge swears the applying officer and the officer will sign the Affidavit and Application.
 - c. The judge will then sign the Affidavit and Application and the Search Warrant.

V. EXECUTION OF A SEARCH WARRANT:

A. When the search warrant is obtained, the officer will notify his or her immediate supervisor of the following:

1. That a search warrant has been obtained;
2. The purpose of the search;
3. The time and location where the search is to take place; and
4. Determine if the execution of the Search Warrant is High Risk or Low Risk.

B. In High Risk situations (and Low risk, if necessary), the lead officer or affiant will conduct a briefing session with all of the participants. The lead investigator or affiant will complete the "W.P.B.P.D. Operational Format" form (Appendix D) and will discuss all elements of the search with emphasis on the following factors:

1. Detailed identification of the subject premises, vehicle, or person(s) to be searched.
2. Location of travel routes, entries, and exits.
3. Information regarding the occupants, including the possible presence of children.
4. The potential presence of weapons, traps, animals, alarms, and/or any other security devices that might be in operation.
5. Whenever available, blueprints or sketches of the premises, or photographs of the person(s) or vehicles to be searched will be reviewed.
6. Necessary equipment will be obtained and checked, i.e., firearms, protective vests, handcuffs, flexcuffs, entry tools, etc.

C. The lead officer or affiant will give members of the briefing a copy of the completed "W.P.B.P.D. Operational Format" form.

1. Upon completion of the execution of the search warrant, the officer will submit the original completed form to his or her supervisor for review. The form will be attached to the administrative copy of the Offense/Incident Report for record keeping purposes.

D. The team leader and/or lead investigator must ensure that all team members are aware of individual assignments and responsibilities:

1. Search leader,
2. Entry team,
3. Search team,
4. Perimeter security, and
5. Cover officers.

E. The lead investigator will arrange for additional assistance, if necessary, i.e., crime scene investigators, photographers, transport officers, etc.

F. When necessary, uniformed personnel will be present when a search warrant is executed. Some type of identification will be worn by all non-uniform members of the search team so they can be easily identified as police officers.

VI. CONDUCTING THE SEARCH:

A. Due to the diverse situations surrounding the execution of search warrants, the actual conduct of the search team, i.e., the approach, entry, securing of the premises/ persons, etc., will be determined by the team leader on a case by case basis. The paramount considerations are citizen, officer, and suspect safety.

B. If, after due notice of the officer's authority and purpose, that officer is refused admittance to the premises or access to anything therein, the officer may forcibly open any door, window or any part of the premises or anything therein to execute the search warrant.

C. Once the search location is secure, the team leader will have photographs taken of damage sustained during entry. Pre and post search photographs of the areas searched may also be taken.

D. The collection/handling of seized evidence will be done under the supervision of the search team leader.

1. The Lead Investigator is responsible for directing the scope of the search and the personnel involved in the search.

E. Items seized will be logged on the "Inventory and Return" form (Appendix E).

1. The location where the property was seized will be noted.

F. A copy of the Search Warrant and the Inventory and Return will be given to the defendant or premise's owner. If the person named in the warrant, the property owner, or other adult resident is not present, the search warrant and inventory form will be posted in a conspicuous place within the search location.

G. When the search is completed, the premises will be turned over to the appropriate person. If no one is available, the officer will re-secure the premises as well as possible.

VII. POST SEARCH RESPONSIBILITIES:

A. Upon completion of a High Risk search, all search team members will meet at a predetermined location to account for every member's safety and critique the search.

B. Upon completion of the critique, the lead investigator or affiant will complete a Search Warrant Execution Review form (Appendix F). This form will be reviewed by the lead investigator's supervisor and will be attached to the administrative copy of the Offense/Incident Report for record keeping purposes.

C. The original officer/affiant for the search warrant must return the original of the Affidavit and Application for Search Warrant, the Search Warrant, and the Inventory and Return form to the Office of the Clerk of Courts within 10 days of the execution of the warrant.

1. The Inventory and Return, which will be completed on every search warrant executed, will be notarized prior to submitting it to the Clerk's Office.

2. A copy of all documents to be returned to the Clerk of Courts will be attached to the administrative copy of the Offense/ Incident Report for record keeping purposes.

D. Additional copies of the documents will be made as needed for inclusion with the officer's case file, the original police report and the filing packet for the State Attorney's Office

VIII. REFERENCE:

- SOP # IV-1 Specialized Investigative Operations
- SOP # IV-25 SWAT Team Function.
- F.S.S. 933 Search and Inspection Warrants.

Delsa R. Bush, Chief of Police

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Old SOP # 6.610.020
Revision Dates: 06/01/99, 08/01/1999, 12/15/1999, 01/01/2005

Job Title Task Files: SWAT Team Leader, Supervisors

Appendix A

WEST PALM BEACH POLICE DEPARTMENT

CONSENT TO SEARCH

READ EVERYTHING ON THIS PAGE BEFORE YOU SIGN IT. BE SURE YOU UNDERSTAND IT.

YOU HAVE THE CONSTITUTIONAL RIGHT TO REFUSE A SEARCH OF YOUR PROPERTY FOR EVIDENCE BY LAW ENFORCEMENT OFFICERS UNLESS THEY HAVE A VALID SEARCH WARRANT.

(Date) _____

(Location) _____

I, _____ having been informed of my Constitutional Right not to have a search made of the premises, automobile or _____ (other)

(circle correct one and cross through others) hereinafter mentioned, without a search warrant and of my right to refuse to consent to such a search, hereby authorize

_____ and _____ Law Enforcement Officer of _____ to conduct a complete search of my premises, automobile, _____ which is described as (other)

_____ and which is located at _____

These law enforcement officers are authorized by me to take from my premises, automobile, _____, and furnish me with a receipt for any letters, papers, materials or other property taken into custody by them which they believe is criminal evidence or evidence associated with the commission of a criminal offense.

This written permission is being given by me to the above named law enforcement officers voluntarily and without threats or promises of any kind. I understand that I can refuse them permission to search unless they have a proper search warrant.

WITNESSES: _____

Signature _____

Date _____

Appendix B

AFFIDAVIT AND APPLICATION FOR SEARCH WARRANT

IN THE (CIRCUIT) (COUNTY) COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR PALM BEACH COUNTY, FLORIDA.

THE STATE OF FLORIDA}
COUNTY OF PALM BEACH}

BEFORE ME, _____

(Circuit) (County) Court Judge In and for Palm Beach County personally appeared this day _ , who being duly sworn, deposes and says that a certain (vehicle) (premises) located in Palm Beach County, Florida described as follows, to wit: _

Being the (vehicle owned, registered) (premises) occupied by or under the control of: _

And there is now being kept in the above described (vehicle) (premises) certain : _

Which is being kept and used in violation of the laws of the State of Florida; to wit, the laws prohibiting: _ , F.S.S.

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That the facts establishing the grounds for this application and the probable cause for believing that such facts exist are as follows: _

WHEREOF, Affiants make this affidavit and pray to the issuance of a search warrant in due form of law for the search of the above described (vehicle) (premises) for the said property, heretofore described, and for the seizure and safe keeping of the property, subject to the order of this Honorable Court or such other Court having jurisdiction over the offense, by the duly constituted officers of the law.

AFFIANT

AFFIANT

Sworn to and subscribed before me this ____ day of _____,
A.D. 20_____.

JUDGE in and for Palm Beach County, Florida

Is personally known to me or produced _____ identification.

Appendix C

(attach to Affidavit)

SEARCH WARRANT

In the (Circuit) (County) Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida

THE STATE OF FLORIDA}
COUNTY OF PALM BEACH}

IN THE NAME OF THE STATE OF FLORIDA, TO ALL AND SINGULAR:

The Sheriff of Palm Beach County, Florida, and his lawful Deputies, All Police Officers in Palm Beach County, Florida, The Commissioner of the Florida Bureau of Law Enforcement or any of his duly Constituted Agents;
to-wit: _

WHEREAS, complaint on oath and in writing, supported by affidavit of a credible witness, or witnesses, to wit:
_

Which is attached hereto and made a part hereof, has this day been made before the undersigned:

_____ (Circuit) (County) Court Judge
in and for Palm Beach County, Florida, and,

WHEREAS, said facts made known to me and considered by me have caused me to certify and find that the facts set forth in said affidavit show and constitute probable cause for the issuance of this warrant and the Court being satisfied of the existence of said grounds set forth in the affidavit and that the laws of the State of Florida have been and are being violated on or in a (vehicle) (premises) known and described as follows, to wit: _

Being the (vehicle owned, registered) (premises) occupied or under the control of: _

And there is now being kept in the above described (vehicle) (premises) certain: _

Which is being kept and used in violation of the laws of the State of Florida, to wit the laws prohibiting: _, F.S.S. _

NOW THEREFORE, you, or either of you are hereby commanded with proper and necessary assistance, in the name of the State of Florida, in the daytime or in the nighttime or on Sunday, to forthwith search the said (vehicle) (premises) hereinbefore specified, for the property specified, and if the same, or any part thereof shall be found in said (vehicle) (premises) then you are authorized and commanded to seize the same and to bring the property and any person arrested in connection therewith before the Magistrate or any other Court having jurisdiction of the offense, to be dealt with according to law, and to forthwith make return of your doings upon executing this warrant, which you are hereby commanded to execute as the law directs within ten (10) days from the date thereof.

You are further commanded, in the event that you seize any of the said property hereinbefore described, to make up, at the time and place of the seizure, a full, true and itemized list and inventory of all things seized and taken, in duplicate, signed by you, and to then and there give and deliver the said duplicate copy thereof to the person from whom possession shall be taken, if taken from the possession of anyone, together with a duplicate copy of this warrant, and if not taken from the possession of anyone then to any person in charge of said (vehicle) (premises), and in the absence of any such person, to leave the same on or in the (vehicle) (premises). The original of this warrant, together with the original inventory, shall be returned and filed with the Clerk of the Court as stated above within ten (10) days of the issuance of this warrant.

Further, any property seized or taken shall be impounded for use as evidence at any trial of any criminal or penal cause growing out of the having or possession of said property.

WITNESS my hand and seal this _____ day of _____, A.D.,

JUDGE of the (Circuit) (County)
Court of the Fifteenth Judicial
Circuit in and for Palm Beach

Appendix D
WEST PALM BEACH POLICE DEPARTMENT OPERATIONAL FORMAT

DIVISION	CASE NUMBER	FREQUENCY/CHANNEL	DATE
TYPE OF OPERATION			
BUY/BUST:	SEARCH WARRANT:	OTHER:	FLASHROLL:
AMOUNT OF NARCOTICS:			

I SUSPECTS

NAME	DESCRIPTION	FBI/NADDIS/FDLE#

II LOCATION

ADDRESS	DESCRIPTION

III VEHICLES

YEAR	MAKE	MODEL	COLOR	LICENSE	OTHER

IV SPECIAL PROBLEMS

VIII PERSONNEL ASSISTING AND THEIR ASSIGNMENT

NAME	VEHICLE	UNIT NO.	ASSIGNMENT

IX BUST SIGNALS

PRIMARY	SECONDARY	RIP-OFF
VERBAL:		
VISUAL:		

X SPECIAL EQUIPMENT

KEL	HAWK	ACFT	OTHER

Appendix E

INVENTORY AND RETURN

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

Received this search warrant, Palm Beach County, Florida, this _____ day
of _____, 1999. Served the Same by reading and delivering a copy to:
_____ and making search as
within directed; upon which search I found:

- #1:
- #2:
- #3:
- #4:
- #5:
- #6:
- #7:

I, Detective Lieutenant _____, ID # _____, of the West Palm Beach Police Department, the officer by whom this warrant was executed, swears and affirms that the above inventory contains a true and detailed account of all the property taken by me under the authority of this warrant.

Officer

Sworn to and subscribed before me this _____ day of _____, 1999

NOTARY PUBLIC

NOTE: The original Search Warrant, original affidavit, and the inventory and return must be filed with the Clerk of the Court as stated in the Search Warrant within ten (10) days of the date of issuance of the warrant.

Appendix F

Search Warrant Execution Review

CASE NO: _____

I. Case Agent: _____

II. Officers assigned to search Warrant Team:

III. Photographs of premises searched:

Yes No

By Whom: _____

IV. Suspect(s) arrested:

V. Contraband seized:

VI. Action upon completion of search:

1. Was premises secured prior to departure:

Yes No

By Whom: _____

How: _____

2. Was owner/renter present or notified of search:

Yes No

Name: _____

VII. Narrative: Describe any problems encountered during the executive of the Search Warrant, or any special circumstances that the Special Operations Division Commander should be aware of:

