



MARION COUNTY SHERIFF'S OFFICE

POLICY 2140

POLICY 2140 – SEARCH WARRANTS

POLICY

This policy applies to all sworn employees of the Marion County Sheriff's Office, Enforcement Division.

1. The Fourth Amendment to the U.S. Constitution prohibits unreasonable searches. Deputies conducting searches without a warrant will bear the burden of proving the search was reasonable.
2. Deputies will obtain a search warrant in accordance with ORS 133.545 to 133.615. Exceptions for search warrants include:
 - Searches Incident to Arrest: Deputies may search a person or the area within the immediate control of a person who has been lawfully arrested to secure weapons or evidence of a crime.
 - Vehicle Search: Deputies may search a motor vehicle, which is mobile and occupied at the time of contact, when probable cause exists to believe the vehicle may reasonably contain contraband or the fruits or instruments of a crime.
 - Consent Searches: Deputies may conduct a search pursuant to consent without a warrant and without probable cause to obtain a warrant. Deputies will seek written consent whenever reasonably possible.
 - Crime Scene Searches: Deputies will conduct warrantless searches only when lack of time or other exigent circumstances make it impractical for deputies to obtain a warrant. Cases where deputies may conduct warrantless searches of crime scenes include:
 - With the consent of the person(s) or individual(s) in control of the building, area, property, person, or object.
 - Incident to the arrest of the person(s) in control of the building, area, property, person, or object.
 - That which is in plain view with no reasonable expectation of privacy.
 - When dictated by the requirements for deputy safety.

- When probable cause exists and exigent circumstances preclude obtaining a warrant, such as hot-pursuit of a suspect or imminent destruction of evidence.
3. **Emergency Aid/Exigent Circumstances:** Deputies with an objectively reasonable belief that an emergency exists which requires their immediate assistance to protect life may search an area without a warrant. Deputies will not perform a search when primarily motivated by an intent to arrest or seize evidence. Deputies may perform a search only when the primary purpose of the search is to alleviate the emergency.
 4. To obtain a search warrant, deputies will show probable cause that specific evidence concerning the commission of a crime, contraband, fruits of a crime, or property may be found at a particular location.
 5. Deputies will specifically and clearly set forth specific facts establishing probable cause. Deputies will not rely solely upon personal opinion or unauthenticated third party information or hearsay. Deputies may draw such facts from:
 - Personal observation/knowledge; or
 - A reliable source. When using informants, particularly confidential informants, deputies will specify the reliability of the informant and the means by which the information was obtained. Deputies will attempt to corroborate informant information.
 6. Deputies will clearly and completely specify information if relevant to the search:
 - Offense: The deputy will describe the offense with reference to the criminal code section where possible.
 - Place, person, or thing to search: The deputy will describe the search site with specific references in the affidavit and warrant in order to enable the search personnel to locate and identify the search site with reasonable effort. In situations where deputies will search premises, references may include:
 - Street number and apartment number;
 - Physical description of the premises;
 - Legal description of the premises;
 - Name of owner or occupant;
 - Geographical location of the property;
 - Map coordinates or distances from given reference points; and/or
 - Photographs, maps, or diagrams that help to specify the location in question.
 7. Deputies may only search and/or seize those things described in the search warrant. The affidavit will specify and deputies will ensure the warrant includes the following information, if relevant to the search:

- In cases where deputies wish to conduct a complete search of a home and its surroundings, the affidavit will specify a premises, its curtilage, and any outbuildings, such as garages, tool sheds, or barns.
 - Motor vehicles located at the premises, described by color, make, model and license plate if possible.
 - Specific persons on the premises who are to be searched (other than frisked for weapons), referenced in the affidavit and warrant by name, if known.
 - The specific items to search for and seize. Where the item may be dismantled (e.g., firearms), the warrant should authorize search for parts, pieces or components of the item.
 - Computers and related technology and/or equipment. Deputies will, if possible, consult with the computer forensic detective regarding seizure of hardware and software prior to acquiring the warrant.
8. The Sheriff's Office will serve search warrants between 7:00 a.m. and 10:00 p.m.
 - Exception: Deputies may serve a search warrant at any time as long as the affidavit provides good cause and the judge expressly grants permission in the warrant.
 9. Deputies may seek anticipatory search warrants when they can show probable cause that the evidence in question will be at a specific location at some time in the near future.
 10. The deputy applying for the search warrant will sign and date each affidavit in front of the reviewing judge.
 11. Deputies will review search warrants to ensure the warrant includes pertinent information set forth in the affidavit accurately and completely, and the warrant has been properly signed. Deputies will not attempt to serve any warrant that is known to contain substantive or administrative errors.
 12. Deputies will observe statutory and administrative requirements regarding return of the warrant to include:
 - recording of the warrant with the District Attorney's Office and the court,
 - providing a receipt to the proper person for property taken,
 - retention and security of property taken,
 - return of the warrant and delivery of the property inventory to the appropriate judicial authority within specified time limits.
 13. Deputies seeking warrants will review affidavits and warrants with the District Attorney's Office prior to contacting the court.
 14. When serving a search warrant, deputies will display identification as law enforcement personnel.

15. Deputies will consider additional assets and include them in the service of the search warrant if they would aid in the safe and efficient execution of the warrant. Such assets include, but are not limited to:
- Tactical entry teams
 - Canine teams
 - Deputies with specialized skills
 - Criminalists or crime lab technicians.
16. When serving search warrants:
- If the residence is occupied, the deputy will provide a copy of the search warrant to the person in apparent control of the search site.
 - If the property is unattended or premises unoccupied, the deputy will leave a copy of the warrant in a conspicuous place on the search site.
17. Deputies will only use the amount of force necessary under the circumstances to prevent escape and destruction of evidence, and to provide deputy safety to secure and detain persons found at the search premises.
18. When detaining persons at the search site, the length and circumstances of the detention must be reasonable given the circumstances presented.
19. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to theft or vandalism, deputies will make arrangements to secure the premises.
20. If damage occurs to the search site, the supervising deputy will document the damage including the actions that caused the damage and a detailed description of the nature and extent of the damage.

DEFINITIONS

Curtilage	The space of ground immediately surrounding and associated with a dwelling.
Dry run	Team members will line up in their order or march and practice entry into a simulated target location.
Dynamic Entry	Forced or perceived forced entry into location
Search Warrant	A written order, in the name of the people, signed by a judge directing a deputy to search specified persons or property in specified locations.
Search Site	The premises, vehicles, personal property or persons to search, as explicitly stated in the search warrant.
Search Personnel	Law enforcement officers and supporting personnel taking part in the execution of a search warrant.
Supervising Deputy	Search team member most knowledgeable about the case and responsible for the investigation.

PROCEDURE

DEPUTY:

Deputies will obtain a search warrant when time and circumstances permit.

Deputies will clearly and specifically establish probable cause when requesting a search warrant.

Deputies will clearly and completely articulate all relevant information in the affidavit for a search warrant.

Deputies will review the affidavit and search warrant with the unit supervisor or their designee prior to service.

Deputies will review the affidavit and search warrant with the District Attorney's Office prior to presenting the affidavit to a judge.

Deputies will sign the search warrant in front of the judge.

Deputies will obtain a judge's signature on the search warrant.

SUPERVISING DEPUTY:

The supervising deputy will conduct a pre-entry briefing of the execution process with all search personnel. This includes a "dry run" of all persons who will be serving the search warrant during dynamic entry.

The supervising deputy will confirm each entry and search team member have read or been read the search warrant, knowing where the search will take place and what items are being sought.

The supervising deputy will attempt to determine if any circumstances have changed that make executing the search warrant undesirable.

The supervising deputy will ensure the entire search warrant execution process is documented, from beginning to end.

SEARCH PERSONNEL:

Search personnel will contact the pre-execution surveillance team (if on scene) to ensure it is an appropriate time to serve the search warrant.

**SUPERVISING
DEPUTY:**

The supervising deputy or designee will notify persons inside the search site, in a voice loud enough to hear inside the premises, that they are with the Sheriff's Office, have a warrant to search the premises, and that they demand entry to the premises at once.

The supervisory deputy will ensure a security sweep of the search site is conducted.

The supervising deputy or designee will read and give a copy of the warrant to the person to be searched or to the person in apparent control of the search site.

If no one is at the search location, the supervising deputy or designee will post a copy of the warrant in a conspicuous place on the search site if the property is unattended or premises unoccupied.

**SEARCH
PERSONNEL:**

If search personnel become aware at any point during the search that a site other than the one described in the warrant is being searched, such personnel will immediately report this knowledge to the supervising deputy.

**SUPERVISING
DEPUTY:**

The supervising deputy will immediately end that portion of the operation and evaluate the need to contact the District Attorney's Office for advice given the new circumstances.

**SEARCH
PERSONNEL:**

If search personnel become aware of evidence of crimes committed, contraband, fruits of a crime, or property that has been used or is being possessed for the purpose of being used to commit or conceal the commission of a crime is located at the search premises but not described within the warrant, search personnel will immediately report it to the supervising deputy.

**SUPERVISING
DEPUTY:**

The supervising deputy will evaluate the need to contact the District Attorney's Office for advice given the new circumstances.

The supervising deputy will designate search personnel to collect evidence.

The supervising deputy will ensure the person searched or the person in apparent control of the search site receives a list of the property seized.

The supervising deputy or designee will post a copy of the property seized list in a conspicuous place on the search site if the property is unoccupied.

The supervising deputy will document any damage that occurs at the search site, and ensure that photographs are taken of the damage and the location is secured prior to leaving the search site.

signed
SHERIFF JASON MYERS

7/28/2011
EFFECTIVE DATE

[Click here to acknowledge you have read and understand this policy.](#)