

WINTER HAVEN POLICE DEPARTMENT

GENERAL ORDER 74.2

Preparing and Executing Search Warrants

ACCREDITATION STANDARDS: CFA – 15.08

EFFECTIVE DATE: April 10, 1996

RESCINDS: G.O. 74.2, February 13, 2013 and all applicable Amended/Temporary Orders prior to May 8, 2018

LAST REVISED DATE: May 8, 2018

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POLICY

It shall be the policy of the Winter Haven Police Department to prepare and execute search warrants as a part of criminal investigations, if applicable.

PURPOSE

The purpose of this General Order is to provide law enforcement officers with specific guidelines and procedures for the preparation and execution of search warrants.

SCOPE

This General Order shall apply to all sworn members of the Winter Haven Police Department.

DISCUSSION

This General Order shall enumerate specific procedures and provide guidelines when preparing and executing search warrants.

PROCEDURE

I. Types of Search Warrants

- A. There are three (3) basic types of applications for search warrants, which are person, private dwelling, and non-dwelling.
1. Person: The form designated as person is the first page of a three (3) part affidavit. Page two (2) consists of the person to be searched and the items to be searched for. Page three (3) consists of a statement of facts constituting probable cause. Additional pages may be added if necessary.
 2. Private dwelling: The form designated as private dwelling is the first page of a three (3) part affidavit. Page two (2) consists of the description of the property to be searched for and a description of the place to be searched. Page three (3) consists of a statement of facts constituting probable cause. Additional pages may be added if necessary.
 3. Non-dwelling: The form designated as non-dwelling is the first page of a three (3) page affidavit. Page two (2) consists of the description of the property to be searched for and a description of the place to be searched. Page three (3) consists of a statement of facts constituting probable cause. Additional pages may be added if necessary.

II. Search Warrant Notification (CFA 15.08a)

- A. Any officer who is intending to obtain a search warrant shall contact the Intelligence Unit and notify them of their intent. The following information must be provided to the Intelligence Unit:
1. The name and address of the primary suspect and all known associates related to the investigation;
 2. The nature of the investigation;
 3. The location of the prospective search;
 4. The proposed date and time of execution of the search warrant; and
 5. The name of the investigating officer and incident number.

Note: This section does not preclude the investigating officer from gathering their own intelligence for the search warrant execution.

- B. On notification of an impending search warrant, the Intelligence Unit shall research as much information as possible pertaining to the suspect and location of the search. The Intelligence Unit shall contact the investigating officer who made the notification and report any information relevant to the search warrant. If there are any conflicts or other investigations relevant to the impending search warrant, those investigating officers shall be notified. This should eliminate any chance of duplication of efforts or the possibility of interfering with another investigation.

III. Preparation (CFA 15.08a)

- A.** Officers shall adhere to the provisions of F.S. 933 for the preparation and execution of search warrants.
- B.** After obtaining a complete set of forms, the affiant shall complete the affidavit first. This is accomplished by filling in the blanks and marking out areas, which are not applicable. Affidavits shall be typed unless exigencies dictate otherwise.
- C.** After completing the affidavit, complete the search warrant form and attach a copy of page two of the affidavit, describing the place to be searched and description of the property to be seized.
- D.** Upon completion of the affidavit and search warrant, it shall be reviewed by the investigating officer's supervisor for any errors or omissions. The supervisor shall ensure that:
 - 1.** The place to be searched is specifically described so that there can be no question as to its whereabouts;
 - 2.** The property to be seized is as specifically described as possible;
 - 3.** The affidavit alleges that a certain crime has been or is being committed on the premises to be searched;
 - 4.** The name of the person or persons who occupy or control the premises should be stated, if known;
 - 5.** After this review, make a photocopy of the search warrant and staple the photocopy to the original warrant.
- E.** On approval of the supervisor, the investigating officer shall present the affidavit and search warrant to an Assistant State Attorney for review and approval. This may be done in person, over the telephone, or electronically by email. (CFA 15.08b)
- F.** Once approved by the Assistant State Attorney, the warrant is ready to be signed by a judge. The State Attorney's Office may assist in finding a judge to sign the warrant. (CFA 15.08b)
- G.** Upon locating a judge, it is essential that the affiant is placed under oath. The affiant shall sign the affidavit and the judge shall sign the affidavit indicating that the affiant has been placed under oath. The judge shall read the affidavit and if satisfied that probable cause exists, shall sign both copies of the search warrant. (CFA 15.08b)
- H.** When leaving the judge, the affiant should have the original copy to which was sworn, signed and dated. A duplicate copy of the original search warrant shall be signed, dated, and attached to the original. (CFA 15.08b)
- I.** The affiant shall also have an Inventory/Receipt form with a duplicate copy to be left at the search location indicating the property seized. There is a ten (10) calendar day period to execute a search warrant (Section 933.05, F.S.). The warrant should be executed as soon as practicable after its issuance. (CFA 15.08b)

- J.** Although Florida has no statutory provision for “no-knock” search warrants, a Florida Supreme Court case has given officers serving a search warrant four “no-knock” exceptions. Officers need not knock and announce their presences if any of the four exceptions exist:
- 1.** The persons within already know of the officer’s presence, purpose, and authority; or
 - 2.** The officer justifiably believes that persons within the location to be searched are in danger of immediate bodily harm; or
 - 3.** Where the officer’s life would be greatly endangered by knock and announcement procedures; or
 - 4.** Where those within are made aware of the presence of someone outside and are then engaged in activities, which justify the officer’s belief that an escape or destruction of evidence is now being attempted.

K. eWarrants Process

- 1.** The preferred method for obtaining a search warrant is by using the eWarrant system.
- 2.** The Case Agent/Officer shall author the draft search warrant to include: the place to be searched, the item(s) to be searched for, and the statement of facts and circumstances leading to probable cause. The draft shall be emailed to the State Attorney’s Office for review.
- 3.** Upon initial review and approval, the Case Agent/Officer shall upload the search warrant in to the eWarrants (DocuSign) program.
- 4.** Upon approval from the State Attorney’s Office and the Duty Judge, once the search warrant is approved the officer will print all necessary copies from the eWarrant system to have/serve upon the subject of the investigation.
- 5.** Upon execution, a copy of the inventory receipt will be uploaded into eWarrants and the Case Agent shall complete/sign the return of service/search warrant.

IV. Execution (CFA 15.08c)

- A.** The party executing the search warrant shall have jurisdiction as directed in the warrant; however, other persons may act in aid of an officer to whom the warrant is directed. A warrant may be directed to any law enforcement officer who has the capacity to serve it.
- B.** An operational plan (WHPD Form-167) for the execution of the search warrant shall be drafted by the investigating officer. The investigating officer’s supervisor shall review the operation plan and submit the operation plan via the chain of command to the investigating officer’s bureau commander for approval. The bureau commander shall brief the Chief of Police on any operation plans before the operation is carried out.
- C.** The on-scene supervisor shall be responsible for requesting medical assistance, if needed, once a situation has been stabilized.

- D. The supervisor shall ensure that members have the proper equipment with them.
 - 1. The evidence custodian shall have a search warrant kit containing pens, pencils, markers, evidence bags, and other needed items.
 - 2. The photographer shall have two (2) cameras [one (1) to use as a backup].
 - 3. Search members shall have surgical gloves to protect them from contaminants and to protect latent evidence from being destroyed.
- E. Officers executing a search warrant are required to knock and announce their authority and presence (Section 933.09, F.S.). Generally, a reasonable knock followed by "Winter Haven Police Department with a search warrant" is sufficient. In most cases, this announcement must be made before officers cross the threshold. If officers are refused admittance to the house, they may break in any inner door, outer door, or any part of the house or thing therein in order to gain entry (Section 933.09, F.S.).
- F. There is no set time an officer must wait from the time of announcement until it is concluded that admission is being denied and forcibly enter. Recent case law indicates it is not improper to wait as little as twenty (20) seconds after knocking and announcing before making entry. This depends upon circumstances and officers' ability to articulate why it is necessary to enter after a shorter period of time. Any commotion inside the premises which would lead officers to reasonably conclude occupants are attempting to destroy evidence gives officers authority to immediately break in after announcing their presence and authority.
- G. Officers must consider the type of evidence for which they are searching in determining how long they should wait before breaking in. Obviously, officers searching for a stolen engine block would wait much longer before breaking in, than officers in search of a bag of heroin.
- H. The party executing the search warrant shall read the search warrant to the person being served and a duplicate copy of same shall be given to the person being served. In cases where the premises are unoccupied, the duplicate copy shall be conspicuously posted on the premises.
- I. Execution of the search warrant shall be carefully planned out by the supervisor in charge of the operation. Tactically, the premises shall be entered in a manner which creates the least risk to the search warrant team members, the destruction of evidence, and those other members at the search location.
- J. A sufficient number of enforcement members shall be utilized in the execution to ensure a proper service. Members on the execution team shall wear their protective vests until all danger has been neutralized. All members on the entry team shall wear clothing which clearly identifies them as police officers.
- K. When intelligence dictates a complex entry or high probability of danger, ERT shall be utilized.
- L. In the event of a search warrant of a person, or of items such as a briefcase or vehicle, a search team shall consist of a supervisor and case detective. In searches of structures, search warrant execution teams shall consist of a minimum of the following members: (1) supervisor, (1) case detective, (1) evidence custodian, (1) photographer,

and (2) search members. (CFA 15.08e)

1. **Supervisor:** Shall be in charge of the search warrant and responsible for all logistics from probable cause to obtaining the search warrant through return of the warrant and proper disposition of seized property and case reports. The supervisor shall be responsible for selecting and communicating with specialized support units.
 2. **Case Detective:** Shall coordinate the case reports and be responsible for obtaining and serving the search warrant, diagramming the premises, and ensuring photographs indicate the area from where property was seized. The case detective shall complete lab reports and ensure all evidence is taken to the lab.
 3. **Evidence Custodian:** Shall collect all items seized, mark property, tag and document the evidence. The evidence custodian shall note on the inventory/receipt the location the property was found and the seizing officer. The evidence custodian shall be responsible for proper processing of the evidence and placement in the Property/Evidence Unit. (CFA 15.08e)
 4. **Photographer:** Shall be responsible for photographing and documenting the place to be searched, which includes exterior and interior photographs as well as photographs of all property located in its found position.
 5. **Search Members:** Shall be responsible for searching pursuant to the search warrant. They shall supplement the original report, indicating the property they found, where they found it as specifically as possible, and who took it into evidence. The search warrant execution team may consist of more than six (6) members but shall not be less than six (6) in searches of a structure.
 - a. If undercover officers are utilized in securing the premises, at least one (1) uniform officer shall be utilized to secure the premises and shall be the first officer through the door.
 - b. Pursuant to entry, the location shall be secured and all persons found therein shall be brought to a predetermined location in the place to be searched. The duplicate warrant should then be given to the person named in the warrant, or if no person is named, to any person in charge of, or living on the premises (Section 933.11, F.S.).
- M.** Persons on the premises may be searched thoroughly where there are reasonable grounds to suspect that such persons are engaged in or connected with the unlawful activities that are the subject matter of the search. Should contraband be located, officers may immediately arrest anyone whom they have probable cause to believe is unlawfully possessing it and immediately search the area within their immediate control. (CFA 15.08d)
- N.** Officers shall search only in the area wherein the property described in the warrant could be hidden (i.e., cannot search dresser drawers for stolen boat motors). Any evidence of another crime uncovered while searching for the items named in the warrant may provide probable cause to have the existing search warrant amended or a new search warrant issued to include the new found evidence. Contraband discovered while legally conducting a search may be immediately seized as evidence and, where

probable cause exists, charges stemming from the contraband should result in the arrest of the involved individual(s). (CFA 15.08d)

- O.** The Search Warrant Return shall be signed by the affiant attesting to the fact the search warrant was executed and a copy of the search warrant and inventory/receipt was provided to the occupant of the residence.
- P.** A copy of the inventory/receipt, a copy of the search warrant and a copy of the affidavit (excluding the probable cause statement) shall be given to the persons named in the warrant or to a person in control of, or living on the premises. If no one is present at the premises when the search warrant is executed, the aforementioned copies shall be left in a conspicuous place on the premises (Section 933.11, F.S.).
- Q.** The property seized under authority of a search warrant should be brought before the court having competent jurisdiction (Section 933.07, F.S.). In lieu of bringing all of the seized property, generally, it is sufficient to make the return to the judge's office with the original warrant attached to the inventory/receipt, unless otherwise directed by the judge. The original warrant and the inventory/receipt must be returned to the judge within (10) ten calendar days with a signed Search Warrant Return. The judge reviews the inventory/receipt and notes on the warrant the date of return.
- R.** Searches and seizures of computer hardware and software shall be in accordance with the Federal Guidelines for Searching and Seizing Computers.
 - 1.** Officers shall exercise caution to protect computer equipment and other devices capable of storing data in an electronic format, and preserve all evidentiary value. Suspect computers shall not be examined until a complete backup of the data has been made.
 - 2.** Whenever an officer requires additional technical assistance to seize a computer, they shall contact the appropriate agency (i.e. PCSO, FDLE, etc) for assistance.

V. Assistance from Other Agencies

- A.** When an officer of our Department prepares a search warrant for a location outside the jurisdiction of the City of Winter Haven, that officer shall contact the appropriate representative of the agency that has jurisdiction of where the search warrant will be executed. This officer shall coordinate with the appropriate agency to have the search warrant executed.
- B.** When an execution of a search warrant by our Department in our jurisdiction requires additional resources (i.e. clandestine lab, multiple locations, etc), the supervisor in charge of the execution of the search warrant shall contact the appropriate outside agency for assistance.
- C.** When an agency notifies our Department of the execution of a search warrant in our jurisdiction, the appropriate division and/or unit shall assist the requesting agency. This assistance may be executing the search warrant, if applicable, or assigning a member to be on scene of the execution of the search warrant to act as a liaison between the requesting agency and our Department.

VI. Search Warrant Records

- A. The Chief of Police shall maintain the original operation plan used in the execution of search warrants.
- B. An after action report shall be completed by the supervisor in charge of the execution of a search warrant.
- C. The original search warrant and inventory list shall be returned to the judge from whom the warrant was issued. The investigating officer shall keep a copy of the search warrant and any inventory list with the case file. These copies shall be forwarded with the case file to the Records Division at the conclusion of the investigation. (CFA 15.08e,f)

VII. Warrants Process

- A. The preferred method for obtaining a search warrant is by using the eWarrant system.
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- C. Upon initial review and approval, the Case Agent/Officer shall upload the search warrant in to the eWarrants (DocuSign) program.
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- E. Upon execution, a copy of the inventory receipt will be uploaded into eWarrants and the Case Agent shall complete/sign the return of service/search warrant.

APPROVED



**Charles E. Bird
CHIEF OF POLICE**