

Cobb County Police Department

Policy 5.23

SEARCH WARRANTS

Effective Date: October 1, 2019	Issued By: Chief C.T. Cox
Rescinds: Policy 5.23 (November 1, 2017)	Page 1 of 6
The words "he, his, him," which may appear in this policy, are used generically for clarity and ease of reading. These terms are not meant to imply gender and relate to all employees of the Department.	

It is the purpose of this policy to provide guidelines for obtaining and executing search warrants.

I. POLICY

It shall be the policy of this Department to conduct searches of persons, places, and things, pursuant to state and federal laws. Officers shall have due regard for the protection guaranteed under the provisions of the Fourth Amendment of the United States Constitution.

II. OBTAINING A SEARCH WARRANT

A. Legal Basis for Seeking a Search Warrant

In order to obtain a warrant, an officer must be able to show probable cause to believe that specific evidence, contraband, or fruits of a crime may be found at a particular location.

1. Generally, officers cannot rely solely upon personal opinion or unauthenticated third party information. Specific facts establishing probable cause must be stated with clarity and specificity. Such facts may be based on:
 - a. Personal observation or knowledge of the officer; or
 - b. Information from a reliable source.
2. When informants are used (particularly confidential informants), the reliability of the informant and information provided shall be specified. Whenever possible, officers shall corroborate informant information.

B. Affidavit

An affidavit supporting application for a search warrant shall be prepared. The accuracy of the affidavit is vital to the validity of the search warrant, thus officers shall ensure that the following information is clearly and completely specified:

1. Offense

The offense shall be described with reference to the criminal code section where possible.

2. Place or Thing to be Searched

The place or thing to be searched shall be described with specificity. Where premises are to be searched, references may include:

- a. Street number and apartment number if appropriate.
- b. Physical description of the premises.
- c. Legal description of the premises.
- d. Name of owner or occupant.
- e. Geographical location of the property.
- f. Map coordinates or distances from given reference points.
- g. Photographs, maps, or diagrams which help to specify the location.

3. Scope of the Search

Only those things described in the search warrant can be seized, unless the requirements of the Plain View Doctrine can be satisfied. Therefore, the affidavit should include:

- a. All areas that officers desire to search. In cases where officers wish to conduct a complete search of a home and its surroundings, the affidavit should specify a “premises’ search and the curtilage,” and should identify any out-buildings such as garages, tool sheds, or barns, where appropriate.
- b. Motor vehicles on the premises that officers desire to search.
- c. Specific names of persons on the premises to be searched (other than frisks for weapons).
- d. The specific items to be searched for.
 1. Where the item may be dismantled (e.g. firearms), the warrant should authorize search for parts, pieces, or components of that item.
 2. A designated expert may be contacted for appropriate language when necessary (e.g. – a High Tech Crimes Squad detective may be consulted when completing an affidavit for the search and/or seizure of computer hardware or software).

4. “No Knock” Provision

Officers may request a “no knock and announce” provision in the warrant when they have reason to believe that adherence to the knock and announce rule would endanger their safety or the safety of others, would enable wanted persons to escape, or would likely result in the destruction of evidence before entry can be made. Specific facts supporting the reasons for this belief should be included in the affidavit.

C. Consultation with the Prosecutor’s Office

Officers seeking warrants in unusual situations, where the seriousness, nature, or legal complexity of the case dictates, should consider reviewing the case with the prosecutor’s office prior to seeking a search warrant.

III. SEARCH WARRANT EXECUTION

Upon the judicial officer signing the search warrant, it will be the responsibility of the officer to execute said warrant as soon as possible or practical. Even though search warrants should be executed as soon as possible or practical, certain situations may call for a delay in the execution of said search warrants (e.g. – officer and citizen safety, informant confidentiality, contraband or suspect absence, personnel availability, etc.).

A. Uniform and Equipment Requirements

The search warrant shall be directed for execution to all peace officers of this state. However, the judicial officer may direct the search warrant to be executed by any peace officer named specifically therein. (OCGA 17-5-24)

1. At time of entry, at least one uniformed officer should be present. All non-uniformed officers should be clearly identified as law enforcement officers.
2. All members of the search team should be equipped with body armor. Once the site is secure, members of the search team may remove their body armor.

B. Time Considerations

1. A search warrant shall be executed within ten (10) days from the time of issuance. Any search warrant not executed within 10 days from the time of issuance shall be void and shall be returned to the court of the judicial officer issuing the same as “not executed.” (OCGA 17-5-25)
2. A search warrant may be executed at any reasonable time. (OCGA 17-5-26)

C. Preparation for Execution of Warrant

Prior to entering the premises, the officer most knowledgeable about the case and/or responsible for the investigation shall:

1. Ensure that the search warrant is accurate, complete, and signed by a judge, and that the property/location about to be searched is the property/location listed on the warrant;
2. Conduct a pre-entry briefing with all search team personnel. The briefing should include: a review of the actual order of operations and procedures personnel will follow, a simulation of the conditions of the search location (using maps, charts and diagrams, when appropriate), and tactics and equipment to be used in the event of forced entry;
3. Attempt to determine if any circumstances have changed that make executing the search warrant at that time undesirable; and
4. Contact any surveillance teams on scene to ensure that it is an appropriate time to serve the search warrant.

D. On-Premises Activities

1. Exits from the premises should be covered.
2. Unless the warrant contains a “no-knock” provision, or exigent circumstances exist, an officer must knock at the entrance and announce his identity and purpose.
3. Uniformed officers should conduct the entry. Non-uniformed officers should be the last members to enter.
4. A security sweep of the location should be conducted by the search team.
5. The officer executing the search warrant may reasonably detain or search any person in the place at the time:
 - a. To protect himself from attack; or
 - b. To prevent the disposal or concealment of any instruments, articles, or things particularly described in the search warrant. (OCGA 17-5-28)
6. The scope of the search will be limited by the size of the item(s) to be seized.

7. Normally, one person shall be designated as responsible for collecting, preserving, and documenting all items seized until possession is transferred to the evidence custodian.
8. The search warrant execution process will be documented from beginning to end. Any damages resulting from entry, forced or otherwise, will be included in the report. Pictures should also be included when possible.
9. A duplicate copy of the search warrant shall be left with the person from whom any instruments, articles, or things are seized; or, if no person is available, the copy will be left in a conspicuous place on the premises from which the instruments, articles, or things were seized. (OCGA 17-5-25)
10. Before leaving the scene, officers should ensure that either the premises is secured, or some authorized person is in direct control of the premises.

E. Return on the Warrant

Officers shall observe statutory and administrative requirements regarding return on the warrant to include providing a receipt to the proper person for property taken, retention and security of property taken, and return of the warrant and timely delivery of the property inventory to the appropriate judicial authority.

IV. SWAT TEAM ASSISTANCE

Request for SWAT assistance shall be evaluated by the investigating officer/detective's supervisor. If the supervisor approves the request, he shall contact the SWAT Team commander. This request should be made as soon as possible in order to give SWAT officers time to develop a tactical plan and less time for the suspect to develop a defense plan.

A. Guidelines for SWAT Team Assistance

1. The following guidelines represent the general criteria which should be met before requesting assistance from SWAT in the execution of a warrant:
 - a. The subject(s) at the location is believed to be armed.
 - b. The subject(s) at the location may resort to the use of weapons when confronted with warrant service.
 - c. Entry to the location may be hazardous or impeded because of warning systems, reinforced doors, or other impediments.
 - d. A "no-knock" clause is contained within the search warrant.

2. The above guidelines are general, and are not intended to restrict the utilization of SWAT resources. Officers confronted with circumstances not conforming to the above criteria should not hesitate to contact the SWAT Team for assistance based upon the circumstances at hand.

B. Information Requirements

Prior to requesting SWAT Team assistance, as much information as possible should be obtained about the location and persons present. This includes, but is not limited to:

1. General warrant information (address, owner, scope of search, etc.);
2. Information on subject(s) at the location;
3. Information regarding weapons at the location;
4. Detailed external/internal diagrams of the location, if possible;
5. Photographs;
6. Information regarding fortification, barricades, types of locking mechanisms, warning devices, lookouts, and dogs; and
7. Other information as applicable.

C. Officer Responsibilities

1. The requesting supervisor should accompany the SWAT Team to the search location as an observer when the warrant is executed.
2. When the SWAT Team executes a warrant at the request of a detective or field unit, only SWAT officers will become involved in the tactical operations of the warrant execution.
3. Officers/detectives on scene shall remain in close proximity of the location. Once the location has been rendered safe by SWAT personnel, the investigating officer/detective shall take control of the scene. He will be responsible for conducting the search, as well as the disposition of evidence and occupants remaining at the search location.