

EL PASO COUNTY SHERIFF'S OFFICE POLICY & PROCEDURE MANUAL

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Subject: SEARCH AND SEIZURE/ ARRESTS		
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Chapter: VII	Reevaluation Date: Annual	No. Pages: 9

I. PURPOSE: To establish and provide guidelines for types of searches that a member may conduct during the normal course of duty including major search operations and “No Knock” entry warrants and searches of persons. To establish guidelines for the exercise of arrest and/or search and seizure authority by Sheriff’s Office members, and to establish guidelines for the conduct of actions pursuant to such authority. To assure compliance with constitutional and statutory requirements, and provide for the safety of all parties involved in the process of Search and Seizure/Arrest.

II. DEFINITIONS:

BODY CAVITY SEARCH: A body cavity search is an intrusive search of the anus, vagina, or other body orifice, conducted by a licensed doctor or nurse. It is accomplished for the purpose of discovery and removal of contraband, as well as for deputy safety.

NO-KNOCK SEARCH WARRANT: A search warrant served by entry without prior identification/notification.

PROBABLE CAUSE: Exists when a set of fact(s) or circumstance(s) based on reliable information, personal knowledge, or observation by a deputy, which reasonably shows and would warrant an ordinarily prudent person in believing that a particular person has committed an offense, or that certain items are connected with a crime and therefore may be seized under the law and that these items are in a place to be searched.

REASONABLE BELIEF: Having knowledge of facts that, although not amounting to direct knowledge, would cause a reasonable person, knowing the same facts, to reasonably conclude the same thing.

REGISTRY: The computerized information system created in C.R.S. 18-6-803.7.

STRIP SEARCH: Occurs when a person is required to remove or arrange some or all of his/her clothing so as to permit a visual inspection of the genitals, buttocks, anus, and/or female breasts.

TYPES OF SEARCHES: Search incident to arrest, search by warrant, by consent, stop and frisk pat searches, strip searches, body cavity searches and vehicle inventory search.

III. POLICY: It is the policy of the Sheriff's Office to execute arrests and searches in an expeditious, standard and legal manner. Care and consideration will be given to both the needs of law enforcement to deal with criminal activity in the community and the Constitutional rights of all individuals. No members' enforcement action, inaction or degree of severity shall be influenced by malice or vengeance or because of prejudice, based on race, sex, ethnic background, religious belief or political affiliation.

IV. PROCEDURES:

The following information is an overview of the numerous criteria involved in arrests/search and seizure issues. Questions pertaining to specific details involving search and seizure may be found in Colorado Revised Statute (C.R.S) 16-3-101 through 16-3-309 and consultation with the Sheriff's Office Legal Advisor or the District Attorney's Office.

A. POWERS OF ARREST:

1. In compliance with C.R.S. 16-3-102, a peace officer, as defined in C.R.S. 18-1-901 (3)(1)(I) and (3)(1)(A), may arrest a person when:
 - a) The deputy has a warrant commanding that the person be arrested
 - b) Any crime has been or is being committed in the deputy's presence
 - c) The deputy has probable cause to believe that the person being arrested committed the offense
2. C.R.S. 16-3-101 allows for arrests on any day and at any time, day or Night.

B. INFORMAL DISPOSITION(S):

Unless otherwise directed by Sheriff's Office regulations or law, a deputy may conclude police incidents by informal disposition. Informal dispositions include referral to another agency, agreements among affected parties and verbal warning. Incidents eligible for this type of disposition(s) include, but are not limited to:

1. Calls for service not involving a violation of law or ordinance.
2. Calls involving misdemeanor violations without a known complainant or a complainant unwilling to initiate a police report.
3. Incidents involving suspects under the age of 10 years.
4. Calls of a peacekeeping nature, when no person is injured.
5. Civil disputes.

C. A LEGAL ARREST IS A SITUATION INVOLVING ANY OR ALL OF THE FOLLOWING:

1. The detention of a person by restraint, force, verbal command, or by creating circumstances which make it implicitly clear to that person that he/she is not free to leave.
2. The detention of a person for a period longer than necessary to conduct an investigating stop and detention, or the deputy takes an action which exceeds the limited purpose of an investigatory stop.
3. The deputy has sufficient information to establish probable cause that the person detained has committed an offense for which the deputy has the power to arrest.

D. ARREST WARRANT:

No deputy shall arrest any person under the color of a warrant unless they reasonably believe that a warrant exists and that the person to be arrested is, in fact, the person described in the warrant. The person to be arrested shall be informed of the deputy's intention to arrest and the cause for the arrest unless such an announcement will jeopardize the arrest, or the person flees or resists before the deputy can convey the intention.

E. PROBABLE CAUSE:

In determining probable cause, deputies may rely on the sources of information listed below. While one source may provide strong enough information to furnish probable cause, it is preferred a deputy have a combination of information from two (2) or more sources as listed below:

1. Personal, direct observations by the deputy
2. Information received from a fellow deputy
3. Information received from a victim or witness

4. Information received from a reliable informant
5. The suspect's response in the form of:
 - a) Incriminating statements
 - b) Erroneous statements
 - c) Contradictory or conflicting statements
 - d) Evasive answers
6. In addition, the following factors may be considered in adding up all the facts of a situation to arrive at probable cause. These factors are less significant than any of the above and do not by themselves, provide probable cause.
 - a) Flight of the suspect
 - b) Furtive gestures
 - c) Attempts to hide or avoid detection
 - d) Presence at or near the crime scene
 - e) Time of day and nature of the area
 - f) The deputy's knowledge of a suspect's prior criminal record
 - g) The deputy's sense of smell
 - h) The suspect's association with others of known prior criminal record

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F. ARRESTS ON PRIVATE PROPERTY:

1. When a deputy has the legal authority to arrest, he/she must still decide whether they may enter private property to effect the arrest.
2. If an area is open to the public but privately owned, the deputy may effect the arrest without meeting further legal requirements.
3. To enter property that is not open to the public to effect an arrest, the deputy must first obtain consent to enter or obtain an arrest or search warrant for the person, except in "hot pursuit" or exigent circumstances.
4. Hot pursuit occurs when there is a continuous chase of a suspect who then enters private property immediately ahead of the police. The deputy engaged in such a chase may pursue onto the private property and effect the arrest. The key elements of hot pursuit are:
 - a) There is no unnecessary delay in initiating the pursuit
 - b) It must be a continuous and uninterrupted pursuit; and
 - c) Minimal time lapse between the suspect's entry and the deputy's entry
5. Exigent circumstances prescribe that a deputy may enter private property in emergency situations. The following tend to establish exigent circumstances, based upon court rulings:
 - a) Probable cause for the arrest exists
 - b) The deputy can articulate the reason to believe the suspect is inside
 - c) The crime with which the suspect is charged was one of a violent nature or the suspect is armed
 - d) There is a likelihood someone may be seriously injured or killed
 - e) There is a likelihood the suspect will escape or that evidence will be destroyed
 - f) The deputy announces themselves and request entry prior to forcible entry

G. OUT OF JURISDICTION ARRESTS:

Deputies may make an arrest beyond their established jurisdictional boundaries in the following situations:

1. To execute a valid arrest warrant. The deputy MUST notify his/her supervisor and have the respective jurisdiction's police agency respond to effect the arrest.
2. While engaged in fresh pursuit as defined in C.R.S. 16-3-106
3. The deputy has probable cause to arrest or knowledge of an arrest warrant for that person. The respective jurisdiction's police agency must be notified.
4. The deputy is engaged in continuous pursuit of the subject after initiating the pursuit in the deputy's jurisdiction.
5. Under a mutual agreement which extends the same authority to the deputy as bestowed in the deputy's jurisdiction.
6. When another agency has requested temporary assistance during a state of emergency pursuant to C.R.S. 29-5-104.
7. A misdemeanor or felony crime is committed in the deputy's presence.

H. ARRESTS REQUIRING SPECIAL HANDLING:

Arrests of a deputy, special officer or private guard, require special handling.

1. Any deputy arresting an officer, a special officer or private guard will note that fact in the report.
2. Any person searching an arrestee who finds a concealed handgun permit or officer or special officer identification shall include such information in the report and immediately notify the on duty unit supervisor or shift lieutenant. A copy of any report noting an arrest of an officer, special officer or private guard will be forwarded to the division commander.
3. The division commander shall be notified immediately when an elected official or a sworn officer from another jurisdiction is arrested.

I. FOREIGN NATIONALS: With or without a visa, also require special handling:

1. The arresting deputy shall note on the custody form, booking sheet and in the report that the person arrested is a foreign national. The deputy will also complete the "Special Instructions" section of the booking sheet, to read: "FOREIGN NATIONAL. PLEASE NOTIFY IMMIGRATION OF THE CUSTODY AND CHARGES."
2. The arrested person shall be required to post bond.
3. If the crime is of a serious nature and deportation should be delayed pending trial, the deputy should note "Do Not Deport" on the custody form and booking sheet.

J. ALTERNATIVES TO PHYSICAL ARREST AND CONTINUED PHYSICAL CUSTODY:

1. The citation (summons and complaint) offers several advantages over physical arrest:
 - a) Citations save the deputy considerable time in processing an arrest
 - b) Physical arrests are an unnecessary indignity to those who are not serious criminals
 - c) Citations enhance the public image of law enforcement and reduce antagonism between the public and the police
 - d) Citations avoid the high cost of physical custody
2. Colorado Revised Statute 16-3-105 describes release by an arresting authority as follows:
 - a) When a person has been arrested without a warrant he/she may be released by the arresting authority on its own authority if:
 - 1) The arresting deputy or a responsible command deputy of the arresting authority is satisfied that there are no adequate grounds for a criminal complaint against the person.
 - 2) The offense for which the person was arrested and is being held is a misdemeanor or petty offense, and the arresting deputy or a responsible command deputy of the arresting authority is satisfied that the person arrested will obey a summons commanding his/her appearance at a later date.
 - b) If the person is released in accordance with subsection A, 2, he/she shall be given a summons and complaint as provided for in C.R.S. 16-2-104 and C.R.S. 16-2-106 and shall sign a written acknowledgment of its receipt and a promise to appear at the time and place specified. If the person refuses to sign the summons and complaint, the deputy shall take the individual into custody and have the individual post bond.
 - c) If the citation is exclusively a penalty assessment, the deputy can serve the penalty assessment without the individual's signature by handing a copy to the defendant, or placing the defendant's copy inside or on the defendant's vehicle. No person shall be required to post bond based solely on a refusal to sign a penalty assessment.
 - d) A summons and complaint may be issued by a deputy for a misdemeanor or petty offense committed in the deputy's presence. If the offense is not committed in the deputy's presence, the deputy must have probable cause to believe the person committed the offense to be served a summons.
 - e) When a deputy arrests a person for a class 2 petty offense, the deputy may issue a penalty assessment. If the person given the penalty assessment chooses to acknowledge guilt, they may pay the specified fine by mail. Should they choose to contest the citation, they shall appear as required by the notice.

K. DELIVERING DOCUMENTATION:

The following documentation will be submitted to the receiving detention facility when a deputy arrests a person who requires being held in custody at said facility: Custody Sheet, Charging Document (Warrant, Summons, or Felony Pre-lim Form), Probable Cause Affidavit, Court Ordered Writ, Mittimus, Order to Commit, Property Sheet and Money Receipt.

L. COMPULSORY JOINER:

C.R.S. 18-1-408 (2) requires that all charges arising from the same criminal episode be brought in a single prosecution. This legal requirement poses a problem to the deputy when arresting a person for both county and state charges or misdemeanor and felony charges.

1. When arresting a person for violations stemming from one criminal episode involving both county and state charges, the deputy must not split the charges between the courts. The deputy must cite either into state court or the county court.
2. When arresting a person for both felony and misdemeanor charges stemming from one criminal episode, the deputy must not issue a summons for the misdemeanor charge; instead, include the misdemeanor charge(s) on the bond sheet and felony filing sheet.

M. FELONY SUMMONS:

For class 4, 5, or 6 felony violations not committed in the deputy's presence, or otherwise not falling into a category for which the deputy may make an immediate arrest, the deputy may request the issuance of a felony summons rather than an arrest warrant. Consideration should be given if reasonable grounds can be established to assert that if the person is not taken into custody they will flee to avoid the summons, has failed to respond to summonses in the past or the location of the subject is unknown.

N. SEARCHES:

1. Search Incident to A Lawful Detention:

a) "Stop and Frisk" C.R.S. 16-3-103:

A "stop and frisk" is not considered an arrest if the contact is made based on the belief that the person may be related to possible criminal activity or suspicious circumstances surrounding the contact.

- b) A peace officer may stop any person who is reasonably suspected of committing, has committed or is about to commit a crime, and may require them to give their name, address and identification if available.
 - c) When a deputy has stopped a person for questioning, pursuant to 16-3-103, and reasonably believes that his/her personal safety requires it, said deputy may conduct a pat-down search of that person for weapons. Whenever possible, pat searches should be conducted by a deputy of the same sex as the person being searched. If a deputy of the same sex is not available, the deputy will pat search using the back of his/her hand while searching the genital areas of males and female, and the female breast area. The reasonableness of the deputy's conduct in searching a person of the opposite sex depends on the exigency warranting the search and the intrusiveness of the search.
2. Search Incident to a Lawful Arrest:
- a) Full search of the defendant's person.
 - b) "Custodial Arrest."
 - c) With or without specific knowledge that the person might be carrying contraband, weapons or other evidence.
 - d) Seizure of any contraband, weapons, or other evidence shall comply with Fourth Amendment mandates.
 - e) The scope of the search shall be limited to the person, the person's clothing, and the area and articles within the person's immediate reach. This would include a wallet, purse, etc. The area of a subject's immediate reach is determined at the time of arrest and not at the time of search. Deputies cannot move an arrested person to another location, then return to the scene of arrest and search incidental to arrest. The search should be made immediately at the point of arrest, with the arrested person present, if possible.

- f) A limited protective sweep of premises may be conducted incident to an arrest to protect the safety of deputies or others, if there is a reasonable belief that the premises harbor an individual posing a danger to those on scene.
3. Pat Searches of In-Custody Persons:
 In custody persons will routinely be pat searched to ensure no contraband or weapons are being carried on their person. Pat searches will be conducted prior to the movement or transportation of in custody persons from their assigned area for any length of time. Whenever possible, pat searches should be conducted by a deputy of the same sex as the person being searched. If a deputy of the same sex is not available, the deputy will pat search using the back of his/her hand while searching the genital areas of males and female, and the female breast area. Whenever it is believed that an arrested person is concealing a weapon or evidence on his/her person a search incident to arrest should be made regardless of gender. The reasonableness of the deputy's conduct in searching an arrested person of the opposite sex depends on the exigency warranting the search and the intrusiveness of the search.
 4. Strip Searches:
 - a) In custody persons may be strip searched in accordance with Detention Bureau Standard Operating Procedures.
 - b) Law Enforcement personnel may conduct strip searches after obtaining written permission from the appropriate division commander, or senior staff member on duty. This does not prohibit deputies from conducting strip searches under exigent circumstances.
 - c) Any strip search that is conducted shall be performed by person of the same sex as the arrested person, and situated where the search cannot be observed by persons not physically conducting the search.
 - d) No person arrested for a traffic or a petty offense shall be strip searched, prior to arraignment, unless there is a reasonable belief that the individual is concealing a weapon or a controlled substance or that the individual, upon identification, is a parolee or an offender serving a sentence in any correctional facility in the state or that the individual is arrested for driving while under the influence of drugs.
 5. Body Cavity Searches:
 - a) A search warrant, signed by a judge, must be obtained before a body cavity search of any person may be performed. A licensed physician or nurse, in a local hospital, will perform cavity searches. A search warrant is not needed to observe inside a person's mouth, ears or nose.
 - b) Immediately upon the completion of any body cavity search, all deputies involved will complete a detailed report.
 6. Consent Search:
 - a) All consent searches shall be conducted in accordance with applicable case law, as amended.
 - b) Consent may be obtained verbally, but written consent is preferred, using the El Paso County Sheriff's Office consent search waiver.
 7. Search Warrants:
 - a) An investigator or deputy shall prepare a search warrant affidavit and the search warrant. The warrant shall contain specific facts as to the items being sought, the property's legal address and visual description, grounds, or probable cause.
 - b) Search warrants will be reviewed by a supervisor and then subsequently reviewed and approved by a County or District Court Judge.
 - c) Warrant execution upon the Judge's approval.
 - 1) When practical, a supervisor may be appointed as deputy-in-charge of the search warrant execution.
 - 2) The sworn member in charge shall be responsible and accountable for all planning, briefing, personnel use and the overall control of each search warrant situation.
 - 3) The sworn member in charge may delegate authority for the specific assignment of personnel, vehicles, equipment and other duties to ensure the safe execution of the warrant.
 - 4) When multiple targets or large areas are to be affected in the execution of search

warrant(s), personnel may be assigned specific team duties. Any or all of the below listed team assignments may be made, when necessary, to facilitate the completion of the operation:

- (a) Observation Team:
 - (1) Identify the area to be searched.
 - (2) Identify persons and vehicles present and any other activity at the place to be searched or in the immediate area.
 - (3) Relay information to other units.
 - (b) Arrest Team:
 - (1) Assigned to control, arrest and transport those persons arrested.
 - (2) Responsible for the completion of all arrest reports and booking of prisoners.
 - (c) Security Team:
 - (1) Maintains security of the area to be searched.
 - (2) Admits only authorized personnel.
 - (d) Search Team:
 - (1) Conducts search.
 - (2) Photographs all items prior to the seizure.
 - (3) Collects, identifies, marks and places in custody all items seized.
 - (4) Logs all items seized.
 - (5) Secures items seized with the evidence custodian.
 - 5) The member executing the warrant shall ensure that a copy of the search warrant, and copies of the inventory indicating what was seized, is left with the occupant or posted in a conspicuous place.
 - 6) The member serving the warrant shall complete the search warrant Return and Inventory and return it to the court clerk within 10 days, or as specified on the warrant.
8. No Knock Warrants:
- a) Application: Permission and approval from the Sheriff, Undersheriff, or bureau chief shall be obtained before conducting a no knock warrant.
 - b) The deputy will include the following information in the warrant:
 - 1) Identify or describe the premises, person, place, or thing to be searched.
 - 2) Identify or describe the property to be searched for, seized, or inspected.
 - 3) Establish the grounds for issuance of the warrant or probable cause to believe that such grounds exist.
 - 4) Establish probable cause to believe that the property to be searched for, seized, or inspected is located at, in, or upon the premises, person, place, or thing to be searched.
 - c) The deputy will complete the warrant and all attachments, then sign the document under oath in front of the court attesting to the accuracy and completeness of the warrant and all attachments. A copy of the affidavit and a copy of the transcript of testimony taken in support of the request for a search warrant shall be attached to the search warrant filed with the court. If a confidential informant is used to establish the grounds for the issuance of a no knock search warrant, the warrant shall contain a statement by the deputy concerning when such information became known or was verified by the deputy. The statement shall not identify the confidential informant.
 - d) The deputy will specifically request the issuance of a no knock search warrant.
 - e) The deputy will have the warrant and all attachments reviewed and approved for legal sufficiency and signed by a district attorney pursuant to C.R.S. 20-1-106.1 (2).
9. Federal No Knock Warrants:
- a) If the El Paso County Sheriff's Office receives a federal no knock warrant from any source, the receiving division will:
 - 1) During regular business hours the receiving division will contact the District Attorney's Office directly. The District Attorney's Office will be advised of the warrant and will review the circumstances surrounding the need for a no knock warrant. The District Attorney's Office will then review the warrant and all attached documents to insure the warrant is valid.

- 2) If the District Attorney's Office is closed, the receiving division will immediately contact the on call homicide district attorney. The homicide district attorney will be advised of the warrant and review the circumstances surrounding the need for a no knock warrant. The homicide district attorney will then review the warrant and all attached documents to insure the warrant is valid.
 - 3) If the decision of the District Attorney's Office conflicts with the federal no knock warrant the warrant will not be executed as a no knock warrant.
 - 4) If it appears additional charges may be filed within the state of Colorado a warrant from the jurisdiction affected within the state is also required.
- b) Service:
- 1) The entry team shall be the Sheriff's Office Special Weapons and Tactics Team (S.W.A.T.)
 - 2) The S.W.A.T. Commander shall coordinate all actions taken by the unit.
 - 3) S.W.A.T. will only secure the premises and the individuals of the area within the scope of the search.
 - 4) S.W.A.T. will utilize the best tactical deployment for safety of unit, citizens and protection of premises to be searched.
 - 5) Based on the safety of the public, suspect and sheriff's office personnel involved, the ultimate decision to serve, and the method of serving a no knock search warrant rests with the on scene commander.
- c) Without no knock provision:
- 1) The person in control of the premises to be searched shall be advised of the search warrant and be presented with a copy of the warrant.
 - 2) All occupants will be directed to a neutral area prior to the search.
- d) Vacant or Unoccupied Premises:
- 1) Premises appearing unoccupied may be entered pursuant to the warrant.
 - 2) Entry shall be made in a manner to minimize the damage to the affected premise.
 - 3) The search shall be conducted in a reasonable manner with a minimum of disruption to the premises and contents.
 - 4) The supervisor on the scene, or a designee, shall recheck the searched area in order to insure that no equipment is left behind.
 - 5) The area searched, if forcibly entered, shall be secured by the best possible method at the conclusion of the search.
 - 6) The Public Information Officer, supervisor on the scene, or a designee, shall be responsible for all proper press release information.
10. Motor Vehicle Searches
- a) Generally, deputies do not need a warrant to stop and search a vehicle capable of being moved when there is probable cause to believe that evidence of a crime is in the vehicle. This exception is allowed due to exigent circumstances created by the mobility of the vehicle and the diminished expectation of privacy.
 - b) When probable cause exists, the following circumstances make a warrant unnecessary:
 - 1) The vehicle is moving.
 - 2) The deputy has reason to believe that persons known or unknown may move the vehicle.
 - 3) The vehicle has recently been moved.
 - 4) It is impractical to post a guard while obtaining a warrant.
 - 5) The probability exists that time or elements may destroy evidence.
 - 6) It is an emergency situation in which the vehicle must be searched to save life, prevent injury to others, or prevent serious damage to property.
 - c) When an occupant of a vehicle has been taken into custody, the deputy may conduct a warrantless search of the passenger compartment where weapons or evidence of a crime may be located. The search may include glove boxes, receptacles, luggage bags, clothing, or other closed containers.
11. Vehicle Inventory Search:
- a) On July 6, 1976, the Supreme Court expressed four (4) reasons why police may inventory impounded vehicles:
 - 1) To protect the owner's property while it is in police custody.

- 2) To protect the police and the municipal government from claims or disputes over alleged lost or stolen property.
 - 3) To protect the police from the potential danger of thieves entering the vehicles and stealing firearms or drugs left therein.
 - 4) To determine whether a vehicle is stolen and to learn the owner's identity.
 - b) When impounding any vehicle, a thorough search of the vehicle (to include the trunk) will be conducted. This search will include any and all containers, whether open or closed to inventory the contents. The contents of the vehicle will be listed on the reverse side of the impound sheet and signed by the tow truck driver.
12. Plain View Doctrine:
- a) When the deputy is lawfully on the premises, the deputy may make a warrantless seizure of property if it is immediately apparent that the property constitutes criminal evidence.
 - b) The item seized must be immediately apparent as contraband or evidence of a crime. If the item must be moved or examined more closely, plain view doctrine does not apply. A search warrant will be required to move/seize the item.
 - c) Except in cases involving exigent circumstances or motor vehicles, a plain view observation of contraband or evidence does not justify a warrantless entry into a constitutionally protected area to seize the item.

O. RESTRAINING ORDERS:

1. In determining probable cause, deputies shall assume that information received from the registry is accurate. Valid restraining orders shall be enforced whether or not there is a record of the order in the registry, i.e. a copy of the order is produced, but there is no record of it in the registry. Unless a deputy acts in bad faith, malice or not in compliance with rules adopted by the Colorado Supreme Court, he/she shall not be held criminally or civilly liable for enforcing a restraining order.
2. When probable cause exists that a suspect has violated or attempted to violate a restraining order, arrest is mandatory. If an arrest is impracticable (i.e.: suspect cannot be located), an arrest warrant shall be obtained.
3. The fact that contact was initiated by, or with the consent of the victim, does not necessarily nullify a restraining order. All restraining orders should be treated as valid and enforced. Arrest is mandatory by statute.
4. A temporary restraining order may be made permanent without further notification to the restrained person.
5. A temporary restraining order will automatically become permanent if the restrained person fails to appear on the court return date.

Summary: The aforementioned information is a guideline for Sheriff's Office use and does not cover all of the numerous exceptions and problems surrounding search and seizure issues. The deputy is ultimately responsible for researching, applying for and executing all warrants. Each deputy or member involved is expected to use all resources at their disposal to insure no violation of Sheriff's Office policy as well as no compromise of civil and Constitutional rights has or will occur.