GREENVILLE COUNTY
SHERIFF'S OFFICE

GO - 219

GENERAL ORDERS

SEARCH AND SEIZURE

PURPOSE: This directive provides guidelines for the execution of a search warrant, and limited exceptions to a search warrant.

POLICY: It is policy of the Greenville County Sheriff's Office to:

1. Provide techniques to accomplish a thorough and legal search.
2. Observe the constitutional rights of the persons the warrant is being served upon.
3. Minimize the level of intrusion experienced by those who are having their premises searched.
4. Provide for the highest degree of safety for all persons concerned.
5. Establish a record of the entire execution process.

Search and seizure with a search warrant is preferred unless limited exceptions apply. The key to the successful, legal discovery of evidence or contraband is reasonableness coupled with a deputy's ability to articulate the necessity of search and seizure with or without a warrant.

DEFINITIONS:

SEARCH SITE - The premises or persons to be searched, as explicitly described in the search warrant.

SEARCH PERSONNEL - Sheriff's deputies and support personnel taking part in the execution of a search warrant.

EVIDENCE COLLECTOR - Member of the search team responsible for the possession, packaging, sealing, and marking of all items seized.

SUPERVISING OFFICER - Search team member most knowledgeable about the case and/or responsible for the investigation.

UNIFORMED PERSONNEL AND EQUIPMENT REQUIREMENTS: A search team will include at least one uniformed deputy. All non-uniformed deputies are to be clearly identified as law enforcement deputies by wearing a Sheriff's Office badge, a distinctive jacket, armband, or some other highly visible indicator of office.

All members of the search team are to be equipped with body armor.

TIME LIMITATIONS ON SEARCH WARRANT EXECUTION:

A search warrant is to be executed as soon as practical within conditions permitted by State law. Circumstances that may necessitate a delay in executing a search warrant include, but are not limited to:

- The need to execute more than one search at the same time requiring coordination and mobilization of law enforcement resources.
- Seizeable items have not arrived at the search site.
- Probability is high that substantial resistance will be encountered.
- A particular person(s) is absent from the search site, and the supervisory deputy feels the search would best be conducted if that person were present.
- A need to protect an informant's identity.

Searches are to be conducted within reasonable hours as may be dictated by the circumstances surrounding the investigation and pursuant to State law.

PREPARATION FOR EXECUTION OF SEARCH WARRANT:

PRE-ENTRY BRIEFING - Prior to entering the premises, the supervisory deputy is to conduct a pre-entry briefing of the execution process with all search team personnel. Search personnel are to view a simulation of the conditions of the search site (using maps, charts and diagrams, when appropriate) and tactics to be used in the event of forced entry. The on-duty uniform patrol Lieutenant or their designee is to be notified.

The supervisory deputy is to attempt to determine if any circumstances have changed making execution of the search warrant undesirable at that time. Surveillance teams are to be used whenever possible to ensure intelligence on the target is kept fresh up to the time of execution.

The supervisory deputy is to ensure the entire search warrant execution process is documented from beginning to end. Documentation continues until the search team leaves the premises. If practical, a written record is to be supported with photographs and a video recording of the entire search site from start to finish.

ENTRY PROCEDURES:

Approach to the scene is to be without sirens. If a pre-execution surveillance team is on the scene, radio contact is to be made to ensure it is an appropriate time to serve the search warrant.

The supervisory deputy is to make certain the search warrant is valid and the property about to be searched is the property described on the warrant.

Search personnel are to position themselves in the following manner:

1. Exits from the premises are covered.
2. Uniformed deputies are the most visible members of the search team, and should conduct the entry.
3. Non-uniformed deputies are the last personnel to enter the search site.

NOTIFICATION OF INTENDED SEARCH:

In a voice loud enough to be heard inside the premises, the supervisory deputy or a uniformed deputy is to notify persons inside the search site:

1. That they are from the Sheriff's Office.
2. They are in possession of a warrant to search the premises.
3. They are demanding immediate entry into the premises.

No-knock entries are conducted in accordance with State law**.**

ACTIVITIES:

The supervisory deputy is to ensure the search team conducts a security sweep of the search site. After the search site is secured, search personnel are to develop a prioritized strategy detailing probable locations of the items to be seized and a systematic operation for conducting the search. The evidence collector is responsible for collecting, preserving, and documenting all items seized until possession is transferred to Property and Evidence.

If damage occurs during an entry to premises and the structure is to be left vacant, making it vulnerable to security problems, arrangements are to be made to guard the premises until it can be secured. If damage occurs, actions causing the damage and a detailed description of the nature and extent of the damage are to be documented. Efforts are to be taken to minimize damage and disruption from searches.

SEARCH AND SEIZURE WITHOUT A WARRANT:

SEARCH BY CONSENT - A search made following voluntary consent from one authorized to give consent is a lawful exception to the warrant requirement. The critical issue is whether consent is voluntary and not coerced. Factors that may be considered in determining voluntary consent include the following:

1. The number of deputies present at the time consent is requested. Is the consenter legally qualified to give consent for search of the premises?

2. Time of day.
3. Manner of request.
4. Display of weapons by search team.
5. Whether consenter is in custody.

Consent to search must be obtained in writing by using an approved Consent to Search form. This form advises the individual they have the right to withhold consent and is the only warning required. The consenter controls the conditions, scope, and time of the search, and may revoke consent.

EXCEPTION TO WRITTEN CONSENT: Consent to search on vehicles must be captured with the use of a body camera with audio and/or in-car video with audio. In cases where the ability to video and audio record such consent is not available, then written consent must be obtained.

STOP AND FRISK - When a deputy has articulable reasons to fear for their safety, they may conduct a limited search for weapons using a pat down of the outer clothing. Objects felt and believed to be weapons may be retrieved and subsequently used as grounds for arrest if the object's possession is unlawful.

SEARCH OF A VEHICLE - A vehicle found on the open road or other public place may be searched without a warrant, consent, or arrest when the deputy initiating the search has probable cause to believe the vehicle contains contraband or evidence of a crime and it is impractical to obtain a search warrant. This exception to the warrant requirement is based on the Carroll Doctrine due to a vehicle's mobility.

The scope of this type of search is the same as with a warrant and may therefore extend to any part of the vehicle where evidence sought could be located. The search may extend into any container found within the vehicle wherein the evidence could be secreted.

EXIGENT CIRCUMSTANCES - The law recognizes that under certain emergency circumstances, the requirement of a search warrant is waived and a deputy may properly make warrantless entry.
Immediate warrantless entry is justified:

1. To protect life and property.
2. To arrest a fugitive in hot pursuit.
3. To preserve evidence from being destroyed or removed.

Deputies effecting warrantless entry should be prepared to justify their action with facts supporting a reasonable belief an emergency existed.

CRIME SCENE SEARCHES - A crime scene may present exigent circumstances permitting a warrantless search of the entire premises or area for protection of life and property. A deputy may respond to an emergency and seize evidence in plain view. Any extended search directed against a person possessing Fourth Amendment protection in a premise is to be done with a search warrant or consent.

SEARCH INCIDENT TO ARREST - The authority to search following a full custody arrest is an exception to the warrant requirement and allows a full, complete search for weapons, implements of escape, or evidence of the arrestee's crime. The search is to be made at the time and place of arrest or as soon thereafter as practical.

Search incident to arrest includes:

1. The person of the arrestee.
2. Portable personal property in the possession,
3. The immediate surrounding area from which the arrestee could seize a weapon or destroy evidence.

Reasonable force may be used to overcome resistance to accomplish a search incident to full custody arrest.

PROTECTIVE SWEEP - When an arrest is made, a protective sweep of a residence or building may be conducted if a deputy has reasonable suspicion that accomplices or others are present and they could jeopardize the safety of deputies or an arrestee. A protective sweep is limited to a brief inspection of only those places where a person could be concealed. Evidence or contraband discovered in a protective sweep may be seized or the observation used to obtain a search warrant.

Anytime a deputy is in a place that they have the lawful right to be and observes evidence or contraband in <u>plain view</u>, they may seize it.

STRIP SEARCHES - A strip-search **<u>must be approved</u>** by a supervisor. A search warrant must be obtained prior to conducting a strip search unless exigent circumstances exist. A strip search without a warrant or exigent circumstances will be considered unauthorized. When authorized, a strip search is to be conducted in a room that will afford privacy from all but those authorized to conduct the search. The search is to be performed by the least number of personnel possible. A strip search in the field is conducted only under exigent circumstances where the life of a deputy or others is at risk.

Strip searches are to be performed by deputies of the same sex as the detainee. Deputies are to respect the self-identified gender identity of the detainee when determining which gender personnel should conduct the strip search. The gender of those conducting the search should match the gender identity of the detainee as closely as is feasible.

These procedures apply uniformly to juveniles and adults and should be conducted in the least intrusive manner possible.

BODY CAVITY SEARCHES - *A body cavity search is not to be conducted without a court order or search warrant.* Body cavity searches, excluding the mouth, are conducted only when there is probable cause to believe a particular person may be concealing contraband within a body cavity or otherwise on the suspect's person.

A body cavity search is only to be attempted under the most exigent of circumstances and even then only with a search warrant. When seeking a search warrant, the deputy must be able to clearly articulate why they believe the search is necessary. Even if the warrant is obtained, but is not clear as to the justification, the search will be considered unauthorized.

In the event that the suspect is a juvenile, when procuring the warrant, specific consideration should be given to the age and mental capacity of the suspect, as well as the psychological impact that the search would have upon the suspect.

As a matter of policy, reasonable suspicion justifying a "*Terry*" pat down does not justify a strip or body cavity search. A deputy is not to conduct a strip or body cavity search on the basis of consent. Consent to pat down or a search of pockets does not constitute consent for strip or body cavity search.

A body cavity search is to be performed only by a licensed physician or other medically trained person as directed by the physician. The process of conducting the body cavity search is to involve the same safeguards for privacy and hygiene as for strip searches.

Search procedure:

1. The deputy is to inform the detainee of his intent to conduct a body cavity search thus giving the detainee the opportunity to voluntarily surrender the suspected contraband.
2. The detainee is to remove all articles of clothing, including wigs and dentures, and present them to the deputy for inspection.

3. If the detainee resists the cavity search and becomes violent, additional deputies of the same sex or gender identity as the detainee, as are feasible, should restrain the detainee and assist in stripping. Only reasonable force, necessary under the circumstances, is to be applied to complete the search. If force is used to conduct the search, deputies involved must complete a RTA report.
4. If the detainee resists a cavity search and an insufficient number of deputies are available to restrain the detainee, deputies of the opposite sex or a different gender identity may assist in subduing the detainee before he/she is stripped. The detainee is to be subdued with necessary restraints (handcuffs/shackles) before the assisting deputies leave the room.

NOTE – All strip and body cavity searches are to be thoroughly documented.

INVENTORY OF VEHICLES/PROPERTY: The concept of inventory is based on the idea that deputies frequently come into possession of property belonging to other people.

Inventory is based on three primary interests:

1. Protecting the owner's property.
2. Protecting a deputy against claims of theft or damage.
3. Protecting a deputy and the public against dangerous instruments.

A deputy must have lawful custody of the vehicle or property to conduct an inventory. All vehicles and property taken into custody are to be inventoried to insure safety of the public and their interests. A written report (tow, evidence, incident, supplemental, etc.) is to be completed on all inventoried property.

DRUG RELATED SEIZURES:

BURDEN OF PROOF – Before seizing money related to drug/narcotic activity, the seizing deputy must be prepared to document and later testify to the articulable facts that identify the money as proceeds from a drug or narcotic offense. If the seizing deputy is not capable of articulating the facts pertinent to proving the money was generated from drug or narcotic sales, the money must not be seized and is to be booked into detention as part of the arrestee's personal affects.

The civil process to pursue proceeds from a drug or narcotic offense is separate from the criminal aspect of the case. Mere possession of drugs and money does not constitute grounds for seizure of the money.

If the seizing deputy cannot effectively and thoroughly describe the totality of the circumstances that led them to seize the money, the Seizure Coordinator will return the money to its owner.

SEIZURE VALUES – As a general guideline, the following indicates values that determine whether seizure of property applies to a particular drug related incident:

1. Money - $1,000.
2. Vehicles - $2,000.

NOTE – If an amount is less than $1,000 and there exists articulable facts to prove the money was tied to drug sales, the money can be seized.

CONSENT FORFEITURE – Occasionally, suspects will consent to forfeiture of their seized money. Once again, consent forfeiture must be coupled with articulable facts, as previously described, with the consent form properly filled-out and sent to the Seizure Coordinator. The original Consent Forfeiture form must be sent to the Seizure Coordinator.

A suspect may consent to forfeiture any amount of money, however, there are fees incurred into the Sheriff's Office retaining the money. The Solicitor's Office receives 20% of all seized money and court fees are attached to the overall process. If it is determined that it will not be cost effective to pursue retention of specific amounts less than $1,000, it may be necessary to return the money.

Drug/Narcotic Related Money Seizure Documentation – The following documents are to be sent to the Seizure Coordinator by the end of shift:

1. Incident Report.
2. Original Consent Forfeiture form.
3. Notification of Currency form.

VEHICLES – Before a vehicle is seized for drug/narcotic activity, the seizure must be approved by the Vice & Narcotics Sergeant and/or the Seizure Coordinator.

Drug/Narcotic Related Seizure Documentation – The following documents are to be sent to the Seizure Coordinator by the end of shift:

1. Incident Report citing the name of the vehicle driver, the name of the registered owner, and lien information.
2. Yellow copy of Vehicle Tow and Inventory Record.

In addition to the previously listed documents, the vehicle ignition and trunk keys are to be included with the incident report and tow sheet. Do not send house keys, office keys, etc., to the Seizure Coordinator.

NOTE - Vehicles seized for drug/narcotic related activities are to be towed by the Duty Wrecker to the Greenville County Vehicle Service Center.

REAL ESTATE SEIZURE – Seizures of real estate will be coordinated through the Asset/Forfeiture Unit of the Greenville County Solicitor's Office.

ASSET FORFEITURE – All property acquired through asset forfeiture is to be accounted for in agency records and disposed of pursuant to legal authority.

TRAFFIC RELATED VEHICLE SEIZURES:

South Carolina Code of Laws 56-5-6240 mandates the seizure of a vehicle operated by the registered owner or by a member of the registered owner's household when the operator is charged with:

1. DUI-3rd and above within 10-years of cause date.
2. DUS 4th and above within 5-years of cause date.

Traffic Related Seizure Documentation - The following documents are to be sent to the Seizure Coordinator by no later than the end of each shift:

1. Incident Report (Code-5).
2. Completed DUI/DUS Seizure Form.
3. Yellow copy of Vehicle Tow and Inventory Record.
4. Copy of ticket citing charge for seizure.
5. Defendant's driving record.
6. Copy of seized vehicle registration.

In addition to the previously listed documents, the vehicle ignition and trunk keys are to be included with the required documentation. Do not send house keys, office keys, etc., to the Seizure Coordinator.

NOTE - Vehicles seized for DUI/DUS are to be towed by the Duty Wrecker to the Greenville County Vehicle Service Center.

LARCENY RELATED VEHICLE SEIZURE:

South Carolina Code of Laws 16-13-175 – The motor vehicle used in the commission of a larceny may be seized if the offender is the registered owner of the motor vehicle and the offender used the

vehicle during the commission of a larceny. The statute allows officer discretion in seizing vehicles for larceny offenses. Before a vehicle is seized for larceny activity, the seizure must be approved by the Property Crimes Sergeant or Lieutenant.

SEIZURE VALUE – $2,000 is the general guideline for seizing a vehicle for a larceny offense.

Larceny Related Seizure Documentation - The following documents are to be sent to the Seizure Coordinator by no later than the end of each shift:

1. Incident Report.
2. Yellow copy of Vehicle Tow and Inventory Record.
3. Copy of warrant or ticket citing charge for seizure.
4. Copy of seized vehicle registration.
5. Original Consent Forfeiture form (if applicable).

In addition to the previously listed documents, the vehicle ignition and trunk keys are to be included with the required documentation. Do not send house keys, office keys, etc., to the respective unit Sergeant.

NOTE - Vehicles seized for larceny are to be towed by the Duty Wrecker to the Greenville County Vehicle Service Center.

Hobart Lewis, Sheriff