

	SECTION:	OPERATIONS	OPR-216
	CHAPTER:	ARREST-SEARCH AND SEIZURE	
	DIRECTIVE:	SEARCH WARRANTS (High Risk)	

216.01 SUMMARY

Officers routinely conduct investigations that require search warrants. This directive describes the policies and procedures for applying for and executing a search warrant, as well as for securing premises in advance of a search warrant. The purpose of this directive is to ensure that all search warrants executed by Department employees are in accordance with the statutes and constitutions of the United States of America and the State of Colorado.

216.02 DEFINITIONS

AFFIANT – Officer who prepares/writes an affidavit in support of a search warrant.

216.03 CONSENT TO SEARCH

Whenever possible and practical, “consent to search” is preferable to obtaining a search warrant. Another Officer should witness the consent, which is preferably given in writing. If an Officer can not obtain “consent to search”, then a search warrant is required, unless there are exceptions to the search warrant rule.

216.04 APPLYING FOR SEARCH WARRANT

AFFIDAVIT – Sworn to or affirmed before a judge. The affidavit:

- Identifies or describes, as narrowly as possible, the premises, persons, place, or thing the Officer will be searching.
- Identifies or describes, as narrowly as possible, the property the Officer will search for, seize, or inspect.
- Establishes the grounds for issuing the warrant or probable cause to believe that such grounds exist.
- Establishes probable cause to believe that the property to be searched for, seized, or inspected is located at, in, or upon the premises, persons, place, or thing to be searched.

Use of Hearsay – The affidavit may use “hearsay” provided that the affidavit includes:

- Facts indicating how, when, and where the information source obtained the information.

APPLYING FOR SEARCH WARRANT (con't)

- Facts indicating that the information source is reliable. Examples of reliable information sources may include:
 1. An identified citizen or
 2. A fellow Officer or
 3. An informant who has made statements that are against the informant's own interest, or
 4. An informant who is credible and has provided reliable information in the past. In the latter case, the affidavit includes the nature and results of previous reliable information.

216.05 SECURING PREMISES BEFORE SEARCH

If the delay between obtaining a search warrant and receiving the search warrant could allow evidence to be destroyed, the initiating Officer may secure the premises of a search area.

AUTHORIZED CIRCUMSTANCES – Securing the premises before obtaining the search warrant is permissible only if:

- The delay in obtaining the warrant would be crucial and would allow evidence to be destroyed, AND
- The Officer reasonably believes that evidence or contraband would be removed or destroyed, AND
- The Officer reasonably believes that those persons who have evidence or contraband are aware that the police are actively trying to secure evidence and those persons are initiating steps to destroy the evidence, AND
- The evidence or contraband can be destroyed readily.

PROCEDURES FOR SECURING PREMISES –

- The Officer who initiates the search warrant is responsible for securing the premises, if authorized.
- The Officer may secure premises from the outside only, unless facts support the fear that evidence will be destroyed. In that case a warrantless entry to secure the premises from the inside is justified and authorized.
- The Officer will instruct any person(s) present that they must leave the premises or must allow an Officer to remain with them until the search warrant is obtained.
- The Officer will instruct any person(s) who arrive that they must not enter the premises or must allow an Officer to remain with them until the search warrant is obtained.

**SECURING PREMISES
BEFORE SEARCH (con't)**

- The Officer may restrict the movement and frisk for weapons any person(s) who remain on the premises, against the Officer's instructions.
- The Officer may prevent any person(s) from removing items on the premises.
- The Officer may deny access to any person who does not reside at the premises. The Officer should identify those persons, if possible.
- If any person enters another room against the Officer's instructions and the Officer reasonably suspects that a weapon is located or evidence may be destroyed in that other room, the Officer has the right to search that room.

**216.06 SEARCH WARRANT
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The search warrant must:

- Identify or describe, as narrowly as possible, the premises, persons, place or thing to be searched.
- Identify or describe, as narrowly as possible, the property the Officer will search for, seize, or inspect.
- State the grounds or probable cause for issuing the warrant.
- State the names of the persons whose affidavits or testimony support the warrant.

**216.07 EXECUTING
SEARCH WARRANT**

Authorized Officer – The court directs a search warrant to any Officer authorized by law to execute it in the county where the property is located. A municipal court directs the search warrant to any Officer authorized by law to execute it in the municipality where the property is located.

Affiant responsibilities – The Affiant should be present during the search and should prepare the return, if possible.

Time requirement – A search warrant should be executed and returned within ten (10) days of its issuance.

Time of day and use of force – Unless the court specifies, a search warrant authorizes the Officer to execute the warrant at any time and to use the force reasonably necessary to perform the duties commanded by the warrant.

