



## Dillon County Sheriff's Office Search & Seizure Policy

### I. PURPOSE

To establish procedures for warrantless searches and seizures conducted by Sheriff's Office officers.

### II. POLICY <44.2.2 c.>

Officers will obtain search warrants on proper legal authority whenever practical. However, it is not always practical to obtain a warrant in advance. Officers will conduct warrantless searches and seizures under certain conditions prescribed by law and in accordance with Sheriff's Office policy.

### III. PROCEDURES

#### A. Searches Incident to Arrest

Officers will conduct searches incident to arrest, subject to the following conditions:

1. The arrest is lawful and the search is reasonably related to the circumstances of the arrest.
2. For the purpose of seizing fruits, instrumentalities, contraband and/or other evidence of the crime for which the arrest was made and to prevent the destruction or concealment of evidence, or to remove weapons or dangerous instrumentalities that the arrested person might use to resist or effect an escape.
3. When the arrest is not an excuse to conduct the search.
4. The search is limited in scope to the person of the suspect and the immediate surrounding area. Immediate surrounding area means the area from which the suspect can either obtain a weapon or destroy evidence. In some cases the entire room in which the arrest took place is deemed a surrounding area. Once an arrestee has been removed from this area or room, (s)he could not get a weapon or destroy evidence; therefore, the search will terminate.
5. The search is substantially contemporaneous with the arrest and conducted in the immediate vicinity of the arrest. An exception to this procedure is that an arrested person may be more thoroughly searched at the holding area prior to lockup.
6. An officer conducting a search incident to arrest may use the degree of force reasonably necessary to perform his or her duty.

#### B. Consent Searches <1.2.4>

Officers may conduct a search of persons even though the officer does not have a warrant or probable cause if the officer has obtained the prior consent of the person who will be affected by the search or of someone who has the right and authority to act for the person who will be affected by the search. Keep in mind the following:

1. That consent will be positive.
2. That silence in and of itself does not solely indicate consent.
3. That the person asked for consent may not be coerced in any manner.

4. The person may withdraw consent at any time during the search and the search will stop.
5. Whenever practical, officers requesting consent will obtain a written waiver from the person in lawful possession of the premises or object to be searched. This written waiver is commonly known as a Consent to Search Form.

#### C. Movable Vehicle Exception

An officer may make a warrantless search of a car, truck, RV, boat, airplane or other vehicle in the following situations:

1. When the vehicle is in motion or at least mobile when seized; and
2. There is probable cause to believe it contains contraband or evidence of a crime; and
3. Taking time to obtain a warrant will delay in the search, permitting the vehicle to be moved and possibly preventing the search.

#### D. Motor Home/Mobile Home

Officers may conduct warrantless searches of mobile/motor homes if they fall under the movable vehicle exception requirement (that is, they are mobile and capable of being driven on the road). A mobile/motor home meets the vehicle exception requirements when the vehicle is moving or readily mobile by the turn of a switch key. The determinant is whether it is a vehicle rather than a home. Factors to consider are:

1. Location
2. Readily mobile
3. Elevated on blocks
4. Vehicle licensed
5. Vehicle connected to utilities ( i.e., electricity, sewer, water)
6. Convenient access to a public road

#### E. Crime Scenes

1. During the initial response to a call for service, there is no requirement for a search warrant where a crime has occurred and the crime scene has been secured for the purpose of processing the scene for evidence. However, when the crime scene search will be intensive and time consuming and when evidence may be obtained to be used against an owner /occupant of the crime scene, it is beneficial to obtain a search warrant early in the process.
2. Once police have completed processing a crime scene and relinquished control of it, the location is again subject to all constitutional protections against unreasonable searches and seizures. For more detail on crime scene searches, see General Order Chapter 83, Section #1.01 (Collection and Preservation of Evidence).

#### F. Exigent Circumstances

Officers may make a warrantless search of a person, personal belonging, a vehicle, or a building when there is good reason to believe it necessary to:

1. Save a life
2. Prevent injury; or
3. Prevent serious property damage

#### G. Impounded Vehicles

1. Officers will routinely conduct a warrantless inventory of any lawfully impounded vehicle to:
  - a. Protect the owner's property;
  - b. Protect the Sheriff's Office against claims of lost or stolen property;

c. Make sure that no weapons or other dangerous instruments fall in the hands of vandals or thieves.

2. Officers will complete a Vehicle Inventory Sheet on every impounded vehicle. Please refer to General Order Chapter 61, Section #1.06 (Traffic Ancillary Services) for more information on Impounded Vehicle Searches.

#### H. Hot Pursuit

1. If an officer is pursuing a person and has probable cause to believe that (s)he has just committed a crime, officers may search the structure or premises into which the officer has pursued the person if necessary to:

- a. Protect his or her safety;
- b. Protect the safety of the public; or
- c. Prevent an escape.

2. Hot pursuit searches occur prior to arrest. Authority is limited. Once the suspect has been apprehended, the search will immediately cease.

#### I. Abandoned Property

Officers may, without a warrant, search and seize property that (s)he has good reason to believe has been abandoned.

#### J. Open Fields

An officer may enter and search any unoccupied or undeveloped area that lies outside the curtilage of a dwelling. Curtilage is the area around the home to which the home life activity extends. The curtilage protection only applies to the property owner.

#### K. Plain View

There is no requirement that a warrant be obtained before seeing objects brought into public places open to plain view. However, officers will have a good reason to be at the place where the evidence is found. Officers may, without a warrant, seize any contraband or evidence of a crime that is in "plain view" of where the officer is:

1. Lawfully present; and
2. Had no expectation of finding the contraband or crime evidence; and
3. When it is not practical to get a warrant.

#### L. Stop and Frisk

"Stop and frisk" or Terry searches are covered under General Order Chapter 41, Section #1.03 (Field Interviews). </44.2.2 c.>

BY ORDER OF:

Douglas Pernell, Sheriff

II.

<CALEA Standards: 1.2.4 & 44.2.2 c.>