

SUNRISE POLICE DEPARTMENT POLICIES AND PROCEDURES MANUAL CHAPTER 66 SEARCH WARRANT/LEGAL PROCESS	Effective Date	07/01/91
	Revision Date	09/21/11
	Revision No.	1.2
	Page No.	1 of 9
	Approval:	

66. PURPOSE

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

66.1. REVISION HISTORY

<u>Date</u>	<u>Rev. No.</u>	<u>Change</u>	<u>Reference Section</u>
07/01/91	1.0	New Procedure	Search Warrant
08/23/94	1.1	Added Legal Process to title, added VIN Unit	66.2.2., 66.2.3., 66.2.6.2., 66.2.7.4., 66.2.8.
09/21/11	1.2	Add Definitions	66.4.

66.2. PERSONS AFFECTED

All Department Personnel.

66.3. POLICY

It is the policy of the Sunrise Police Department to ensure that all officers have a sound knowledge of the legal requirements associated with obtaining a search warrant in order to prevent suppression of evidence, support the Constitutional right of citizens and to maintain public confidence in this agency's mandate to carry out the police function in an ethical and legal manner.

66.4. DEFINITIONS

66.4.1. Search Warrant – A written order, in the name of the people, signed by a magistrate or other judicial authority, directing a law enforcement officer to search for specified personal property and bring it before the magistrate.

66.4.2. Search Site – The premises or person to be searched, as explicitly stated in the search warrant.

66.4.3. Search Personnel – Law enforcement officers and supporting personnel taking part in the execution of a search warrant.

66.4.4. Evidence Collector – Member of the search team responsible for the possession, packaging, sealing marking of all items seized.

66.4.5. Supervising Officer – Search team member most knowledgeable about the case and/or responsible for the investigation.

66.5. RESPONSIBILITIES

66.5.1. All Personnel are responsible for complying with this policy. Supervisory Personnel are responsible for the enforcement of this policy. Unjustified violations may result in disciplinary action, up to and including, termination.

66.5.2. This Policy is not intended to be all-inclusive. It is intended to be a general guideline to be read in conjunction with all other Department rules, regulations, policies and procedures, as well as other City rules and ordinances.

66.6. PROCEDURES

66.6.1. Obtaining a Search Warrant:

66.6.1.1. In the ordinary course of law enforcement activity the need may arise to obtain evidence through the application and execution of search warrants. Such warrants may be obtained on the basis of information obtained through investigations or by independent observations of other Officers.

66.6.1.2. The success or failure of any police raid is dependent upon the positive leadership of the Supervising Officer(s) and the discipline of all Search Personnel involved. Individual opinions and actions must be subordinated to the overall plan. An orderly raid will ensue if the members perform their assigned tasks without interfering with the job functions of their fellow Officers.

66.6.1.3. The Fourth Amendment to the Constitution of the United States prohibits unreasonable searches and seizures of persons and property. It is necessary that raids be conducted in a reasonable manner in order to comply with the Constitution and policies of the Department.

66.6.2.2.6. A complete description of the premises and exact address must be obtained for future reference in securing a search warrant.

66.6.3. Regardless of the manner in which the search warrant is secured, all search warrants and affidavits will be reviewed and approved by a Supervisor prior to submission to the State Attorney's Office and Duty Judge. (CFA: 18.10B)

66.6.4. Preparing an Affidavit for a Search Warrant: (CFA: 18.10A)

66.6.4.1. An affidavit supporting application for a search warrant shall be prepared on the designated form(s) used by the Department. 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:

66.6.4.1.1. Legal:

66.6.4.1.1.1. Detailed description of residence.

66.6.4.1.1.2. Detailed description of business.

66.6.4.1.2. Description of evidence.

66.6.4.1.3. Affiants expertise.

66.6.4.1.4. Probable cause:

66.6.4.1.4.1. Supervised purchase (if applicable).

66.6.4.1.4.2. Surveillance.

66.6.4.1.4.3. Undercover information (if applicable).

66.6.4.1.4.4. Concerned private citizen.

66.6.4.1.4.5. Outside agency information.

66.6.4.1.4.6. Background intelligence information.

66.6.4.1.4.7. Interview of arrested subjects.

66.6.4.1.4.8. Confidential Informant information (if applicable).

66.6.4.1.5. Reasons for belief in probable cause.

66.6.4.1.6. When warrant executed.

66.6.4.1.7. Scope of the Search – Only those things described in the search warrant can be seized. Therefore the affidavit shall specify and officers shall ensure that the warrant includes the following: (CFA: 18.10D)

66.6.4.1.7.1. All areas that officers desire to search shall be designated. In cases where officers wish to conduct a complete search of a home and its surroundings, the affidavit should specify a

premises search and its curtilage and should identify any outbuildings such as garages, tool sheds or barns, where appropriate.

66.6.4.1.7.2. Motor vehicles known to be on the premises that may be searched should be specified.

66.6.4.1.7.3. Searches (other than frisks for weapons) of specific persons on the premises shall be referenced in the affidavit by name if possible.

66.6.4.1.7.4. The specific items to be searched for shall be detailed. Where the items may be dismantled (e.g., firearms), the warrant should authorize search for parts, pieces or components of that item.

66.6.4.1.7.5. Officers anticipating search of computers and related high-technology equipment shall consult a designated expert for appropriate language to use in the affidavit and procedures for seizure of hardware and software. Cross reference with Policies and Procedures, Chapter 39 – Evidence Procedures (Seizure of Computer Evidence).

66.6.4.1.8. State Attorney's Office review of the search warrant.

66.6.4.1.9. Signature:

66.6.4.1.9.1. Affiants under oath.

66.6.4.1.9.2. Judge.

66.6.4.1.10. An original and two copies must be signed.

66.6.5. Search Warrant Preparation:

66.6.5.1. The search warrant shall be prepared on the designated form(s) used by our Department. The accuracy of the search warrant is also vital to its validity; officers shall ensure that the following information is clearly and completely specified:

66.6.5.1.1. Legal:

66.6.5.1.1.1. Detailed description of residence.

66.6.5.1.1.2. Detailed description of business.

66.6.5.1.2. Command law enforcement to search for described evidence:

66.6.5.1.2.1. Who by statute can execute, the affiant or their designee.

66.6.5.1.2.2. What may be searched: residence, persons, curtilage.

- 66.6.5.1.3. Order to:
 - 66.6.5.1.3.1. Leave true copy of warrant with return.
 - 66.6.5.1.3.2. Seize evidence so prosecution can be initiated.
 - 66.6.5.1.4. Original warrant turned over to clerk within 10 days from issuance.
 - 66.6.5.1.5. An original and two true copies.
 - 66.6.5.1.6. Judge having examined affidavit under oath signs search warrant.
 - 66.6.5.1.7. Both the Affidavit for the Search Warrant and the Search Warrant will be reviewed by the Unit Supervisor prior to delivery to the judge to ensure that all information contained therein is accurate.
 - 66.6.5.1.7.1. Officers shall review search warrants issued by judicial authorities to ensure that they include all pertinent information set forth in the affidavit accurately and completely, and that the warrant has been properly signed.
 - 66.6.5.1.7.2. Officer shall not attempt to serve any warrant that is known to contain substantive or administrative errors.
- 66.6.6. Execution of Search Warrant: (CFA: 18.10C)
 - 66.6.6.1. Preplan:
 - 66.6.6.1.1. Prior to the execution briefing, the case investigator should obtain information in regard to the following:
 - 66.6.6.1.1.1. Obtain floor plan from:
 - 66.6.6.1.1.1.1. Confidential Informants.
 - 66.6.6.1.1.1.2. Uniformed personnel.
 - 66.6.6.1.1.1.3. Neighbors.
 - 66.6.6.1.1.1.4. Previous owner.
 - 66.6.6.1.1.1.5. Landlord.
 - 66.6.6.1.1.1.6. Building Department, if possible.
 - 66.6.6.1.1.2. Determine identities of all suspects likely to be present when warrant is executed.

66.6.6.1.1.3. Background investigations.

66.6.6.1.1.4. Check for possible entry/exit points (fences, dogs, exterior alarms, large windows, reflective film, etc.).

66.6.6.1.1.5. Check for outdoor lights.

66.6.6.2. Briefing:

66.6.6.2.1. Prior to the execution of the warrant, the case investigator and their supervisor will hold a briefing with all Search Personnel who will be involved in the execution of the warrant. In this briefing, a written operational plan will be prepared by the case investigator(s) and be presented. This operational plan will include suspect(s), personnel assignments, entry location, case instructions, special hazards, diagram, and nearest hospital information. The operational plan will be signed and approved by the Shift Commander or designee.

66.6.6.2.2. Distribute floor plan and/or prepare a sketch of the Search Site.

66.6.6.2.3. Give specific assignments to all participants.

66.6.6.2.4. Provide a pre-arranged staging point before making final approach.

66.6.6.2.5. Notify all Search Personnel as to the appropriate radio channel that will be used for the execution of the search warrant.

66.6.6.2.6. Notify the Communications Center and request that they monitor the appropriate radio channel.

66.6.6.2.7. Make final approach as short as possible.

66.6.6.2.8. Use an innovative approach to have suspect(s) exit the premises:

66.6.6.2.8.1 Towing occupant vehicles.

66.6.6.2.8.2. Undercover approach – Investigator claims to have disabled vehicle.

66.6.6.2.8.3. Fake delivery of goods.

66.6.6.2.9. Assignments should cover inside location.

66.6.6.2.10 Uniformed personnel at all doors, if possible.

66.6.6.2.66. Determine that all non-uniformed personnel are wearing their raid jackets, ball caps and their badges on their outermost garments.

66.6.6.2.12. At the onset of the raid, the first person(s) to enter the premises must be uniformed personnel, unless the raid supervisor reasonably believes that the initial presence of uniformed personnel would jeopardize the raid or endanger citizens or department members, in which case non-uniformed personnel may make the initial entry with uniformed personnel brought on the premises at the earliest practicable opportunity.

66.6.6.2.12.1. When initial entry is made, uniformed personnel should also be stationed at all possible exits from the premises.

66.6.6.2.13. Make certain all participants have observed the correct location or have knowledge of location to be searched.

66.6.6.2.14. Choose the best time for the search:

66.6.6.2.14.1. When suspects are present.

66.6.6.2.14.2. Cover of night for undetected approach.

66.6.6.2.15. Determine what equipment will be necessary.

66.6.7. Equipment:

66.6.7.1. All plain clothes personnel will be fully equipped when making arrests (approved weapons/firearms, vest, flashlights, radios, police jackets, etc.).

66.6.8. Execution:

66.6.8.1. Prior to execution, consideration should be given to additional support personnel being available, present or provisions made for immediately summoning aid. This would include SWAT and Fire-Rescue, if the execution is considered high risk.

66.6.8.2. During the execution of a warrant or consent search, no personnel will search any portion of the Search Site without being accompanied by another law enforcement member.

66.6.9. Entry:

66.6.9.1. The Entry Team Leader or a uniformed Officer shall notify persons inside the Search Site, in a voice loud enough to be heard inside the premises, that they are a police officer, that they have a warrant to search the premises, and that they require entry into the premises immediately.

66.6.9.1.1. No-knock entries shall be made in accordance with current State law.

66.6.9.2. Search Personnel shall enter the premises according to the pre-determined plan.

66.6.9.3. Securing the scene:

66.6.9.3.1. Once inside the structure, all occupants when located should be brought to a central safe location. This safe area should be checked for weapons and contraband prior to securing the persons there.

66.6.9.4. Once the location is secured, the scene should be photographed. The search warrant shall be served before the search is conducted.

66.6.9.4.1. The Case Investigator or their designee:

66.6.9.4.1.1. Reads warrant.

66.6.9.4.1.2. Obtains identification, addresses, and descriptions of occupants.

66.6.9.4.1.3. Collects and processes all evidence, unless an Evidence Collector is previously assigned.

66.6.9.4.1.4. Identifies the location where all evidence was found and by whom.

66.6.9.4.1.5. Makes all arrests except for on-view arrests.

66.6.9.4.1.6. Prepares evidence inventory listing: chain of custody, location found, investigator who found them. (CFA: 18.10E)

66.6.9.4.1.7. Prepares all prosecution referrals.

66.6.9.4.2. Other investigators:

66.6.9.4.2.1. Specific location to be searched is assigned.

66.6.9.4.2.2. Once possible evidence is located, point it out to case investigator or evidence collector, who takes custody of item.

66.6.9.4.2.3. Avoid identifying any Undercover Investigator(s) during a prolonged search.

66.6.9.4.2.4. Prepare witness sheet.

66.6.9.5. If the residence is damaged, specific photographs should be taken.

66.6.9.6. If the residence is to be left in the custody of another person, the Supervisor at the scene will be responsible for identifying the person. Oral permission should be given by the owner of the house in the presence of the person taking custody and the Supervisor.

66.6.9.7. If the house is to be left locked and secured per the owner, this should be done in their presence.

66.6.9.8. All evidence collected will be processed in accordance with current policy and procedure.

66.6.10. Completion of Search Warrant:

66.6.10.1. After the completion of the search warrant execution, the following steps shall be taken:

66.6.10.1.1. The Shift Commander will review, sign the report, and forward to the Records Unit.

66.6.10.1.2. The Shift Commander or designee will ensure that the executing officer prepares the Return of Inventory form in duplicate. This form will be returned to the Clerk of the Courts. The Return of Inventory receipt will be forwarded to the Records Unit. (CFA: 18.10F)

66.6.10.1.3. The Shift Commander will ensure that all paperwork associated with the search warrant execution is forwarded to the Criminal Investigations Division Commander.

66.6.66. Time Limitations:

66.6.66.1. A search warrant shall be executed as soon as practicable under the conditions as outlined within current Florida State Statute guidelines. Circumstances that may necessitate a delay in executing a search warrant include, but are not limited to:

66.6.66.1.1. The need to have many searches occur at the same time, which requires coordination and mobilization of law enforcement resources.

66.6.66.1.2. The seizable items have not arrived at the search site.

66.6.66.1.3. The probability that substantial resistance will be encountered.

66.6.66.1.4. A particular person is absent from the search site, and the Supervisory Officer feels that the search would best be conducted if that person were present.

66.6.66.1.5. The need to protect a confidential informant's identity.

66.6.66.2. Absent court approval, necessity, or authorization by law, a search warrant should be conducted during daylight hours.

66.6.12. The execution of all search warrants, arrest warrants, or other legal process will only be conducted by sworn law enforcement personnel.