

JACKSONVILLE POLICE DEPARTMENT

Policy: 10-12
Effective: 01-01-09
Revised: 01-18-21

SEARCH: RESIDENCES

PURPOSE: To establish policy regarding the search and seizure of residences.

POLICY: It is the policy of this Department to:

- A. Provide techniques to accomplish a thorough and legal search;
- B. Observe the constitutional rights of the person(s) the warrant is being served upon;
- C. Minimize the level of intrusion experienced by those who are having their premises searched;
- D. Provide for the highest degree of safety for all persons concerned; and
- E. Establish a record of the entire warrant service process.

Officers are directed that there are only three (3) lawful methods upon which he may enter a person's dwelling. These methods include a warrant (arrest or search, with differing rules for each), exigent circumstances, or consent.

DEFINITIONS:

- I. **PROBABLE CAUSE (search):** Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that evidence of crime exists and that the evidence exists at the place to be searched.
- II. **EXIGENT CIRCUMSTANCES ENTRY:** Entry of a dwelling without a warrant due to some existing emergency that would not allow an officer time to get a warrant.
- III. **SEARCH INCIDENT TO ARREST:** A search of the arrestee and their immediate area of control that is allowed whenever a custodial arrest is made.
- IV. **CONSENT:** The voluntary granting of permission for an officer to enter an area that is protected by the Fourth (4th) Amendment, by a person who has a reasonable appearance of authority over that area.
- V. **DYNAMIC ENTRY:** The utilization of a special team (i.e. SRT) when executing a high-risk warrant, entering to control a barricaded subject, or similar high risk event.

PROCEDURES:

- I. **KNOCK AND ANNOUNCE**
 - A. Prior to considering a forced entry into a dwelling, officers must knock at the entrance and announce their identity and purpose unless one (1) of the following circumstances exists:
 1. The officer's purpose is already known to the occupant;
 2. When the personal safety of the officer or others would be jeopardized by the announcement;
 3. When the delay caused by the announcement may enable the suspect to escape;
 4. When a prisoner has escaped and retreated to his home; and/or
 5. When the announcement may cause evidence to be destroyed.

- B. If officers believe that one of the above circumstances exist prior to obtaining the warrant, they should seek judicial approval for a “no-knock” warrant by outlining the factors believed to exist in their affidavit.
- C. In determining how long an officer must wait before forcing entry following the knock and announcement, officers should consider the nature of the item sought and how long it would take to destroy the item. The United States Supreme Court found fifteen to twenty (15-20) seconds to be a reasonable amount of time in a drug warrant case.

II. ARREST WARRANT - FELONY OR MISDEMEANOR

An officer may enter the home of the subject of an arrest warrant in cases where the officer also has probable cause to believe the subject is home.

- A. Knock and Announce Rules Apply
- B. Search Incident to Arrest - Three (3) Zones
 - 1. Officers may, at the time of the arrest, search the arrestee’s immediate area of control in the room of arrest at the time of the arrest.
 - 2. Officers may, at the time of arrest, also look into, but not go into, areas adjoining the room of arrest, from which an attack could be launched.
 - 3. Officers may conduct a protective sweep, limited to those places where a person could be, in cases where the officers have reasonable suspicion to believe someone else on the premises poses a danger to the officer and/or others.
- C. Under Arkansas law these searches are limited to those events where, at the time of the arrest:
 - 1. The accused is in or on premises all or part of which he is apparently entitled to occupy; and
 - 2. In view of the circumstances, the officer has reason to believe that such premises or parts thereof contain things which are:
 - a. Subject to seizure;
 - b. Connected with the offense for which the arrest is made;
 - c. Likely to be removed or destroyed before a search warrant can be obtained and served; and
 - d. The arresting officer may search such premises or part thereof for such things, and seize any things subject to seizure.
- D. Officers must obtain a search warrant before entering the residence of a third party in order to search for the subject of an arrest warrant unless exigency or consent exists.

III. SEARCH WARRANTS

Officers must have probable cause to believe that evidence of crime exists and must have probable cause to believe it will be located at the place to be searched.

- A. Knock and Announce Rules Apply: All necessary and reasonable force may be used to effect an entry into any building or part thereof to execute a search warrant if, after verbal notice or a good faith attempt at verbal notice by the officer executing the warrant which states the officer’s authority and purpose:
 - 1. He is refused admittance;
 - 2. The person(s) on the premises refuse to acknowledge the verbal notice or the presence of persons inside the building is unknown to the officer; or
 - 3. The building or property is unoccupied.
 - 4. Where the officer has reasonable grounds to believe that the announcement will place the officer in greater peril or lead to the immediate destruction of evidence, the officer may dispense with the knock and announce requirement.