Buncombe County Sheriff's Office

	Policy Number: 6.03	**Effective Date: 1/19/22**
	Subject/Title: SEARCHES/SEARCH WARRANTS	
	Rescinds:	
	Approved: Sheriff Quentin Miller	
	Approved/Date: 3/10/2022	

I. PURPOSE

The purpose of this directive is to set forth the procedures for conducting searches of persons, vehicles and structures, with and without search warrants.

II. POLICY

It is the policy of the Buncombe County Sheriff's Office (BCSO) to conduct all searches and seizures in a lawful manner. Lawful searches and seizures protect the constitutional rights of our individuals and prevent the suppression of seized evidence. The video and audio recording of all searches and seizures will be conducted in accordance with BCSO Body Worn Cameras Policy.

III. WARRANTLESS PERSON SEARCHES

A. Deputy Safety Considerations

1. Deputies will wait for a backup deputy prior to conducting any person searches unless there is an exigency that prevents the deputy from waiting to search the person.

2. The backup deputy will provide cover/contact for the searching deputy until the search is complete and the person is secured.

B. Frisk / Pat-Down Searches

1. Refer to the definitions for conducting frisk searches.

2. Deputies must be able to clearly articulate the reasons for their suspicion (reasonable suspicion) that the person is armed and dangerous. Examples of articulation include:

   a. The nature of the crime;
   b. Known history of the person;
   c. Observation of the person's actions.

C. Search Incident to Arrest:

1. A search incident to arrest is justified by the need to prevent the arrested person from using weapons, destroying evidence or for the purposes of locating additional evidence.

A deputy automatically has the right to search incident to arrest and is legally justified no matter how minor the offense.

2. A search incident to arrest is limited to a search of the arrestee's person and the area within the arrestee's immediate control. While containers found on an arrestee or within the arrestee's immediate control may be seized, they cannot be searched incident to arrest unless the arrestee is unsecured and within reaching distance of the container at the time of the search. As this is unlikely to occur when an arrestee is in handcuffs, in order to search such containers deputies are advised to obtain consent, a search warrant, or to perform an inventory search.

   Additionally, deputies may search such containers when an arrestee denies ownership of the container and has abandoned the property.

D. Strip searches for contraband when an adult or juvenile is under arrest:

1. Strip searches require that probable cause exists to believe that contraband will be located in the person's genital areas or private parts.

2. The search shall not be conducted on the roadside.

3. The search should be conducted by a deputy or detective of the same sex.

4. The search must be conducted in a private location, outside of the view of the public.

5. The search must be conducted in a reasonable manner to ensure the safety of the individual. (No sharp instruments may be used to remove contraband.)

6. A supervisor must be notified prior to conducting a strip search.

7. The search must be documented in a Narrative Supplement.

E. Body cavity searches when an adult or juvenile is under arrest:

1. A visual body cavity search is permitted if a deputy has probable cause to believe contraband or weapons will be located in or around a body cavity. The same privacy protections should be observed as in a strip search.

2. When a visual body cavity search reveals contraband, the suspect should be told to remove the item.

   a. If the contraband is located in the body cavity the suspect will be informed that if he or she fails to remove the item, the deputy/detective will apply for a search warrant.

b. The suspect will be transported to a hospital where the item will be retrieved by medical personnel.

c. A supervisor must be notified immediately prior to conducting any body cavity searches and the deputy will document the body cavity search in a Narrative Supplement.

3. A manual body cavity search requires a search warrant and must be conducted by qualified medical personnel.

4. When a visual body cavity search reveals a weapon, the search is to be considered exigent and the weapon must be safely recovered and secured.

IV. EXIGENT SEARCHES

A. Strip search for a weapon:

1. Strip searches for weapons may be conducted if exigency exists to believe that a weapon will be located in the person's private area.

2. If a weapon is detected, immediate safety of the deputy(s), suspect(s), and/or civilian(s) are at risk and the removal of the weapon is imperative to preserve safety and life. A strip search in this circumstance, may take place and is considered reasonable and justified.

3. A supervisor will be notified as soon as possible after conducting an exigent strip search. Deputies will document the search in a Narrative Supplement.

B. Search for ingested contraband:

1. A search of a person's mouth is permissible when there is probable cause to believe that the person has placed an illegal substance in his or her mouth. Exigency is created because of the potential harm to the person and the destruction of evidence.

2. The deputy's goal is to get the person to spit out the illegal substance. Deputies should not use their hands or fingers to retrieve the item; instead rely on manipulation of pressure points such as the mandibular angle nerve, hypoglossal nerve and jugular notch nerve.

3. Deputies are not permitted in any way to block the person's airway or restrict blood flow to the brain.

4. If a person has or is believed to have swallowed an illegal substance, deputies will immediately call Emergency Medical Personnel and a BCSO supervisor.

5. Deputies may choose to seek a search warrant to retrieve the ingested evidence.

6. All actions taken in response to possible ingested contraband will be documented in a Narrative Supplement.

V. CONSENSUAL SEARCHES

A. Consent Search: A clear and voluntary expression by a person to allow a deputy to search the person or property of the consenting party or property over which the consenting party has apparent control. Consent may be requested when there is a non-arbitrary articulable reason. The articulable reason should always be noted in a Field Interview or Narrative Supplement.

B. If consent is revoked at any time during the search, the deputy must cease the search unless probable cause has been developed to warrant continuation of the search.

C. For traffic related stops, all requests for consent searches, the approval or denial of the request, and the results of the search must be documented.

D. Deputies equipped with BWC's will utilize the BWC to capture the request to search and citizen's response per policy.

E. Strip searches for contraband with consent:

1. EMS will not be called for the sole purpose of conducting a strip search. If EMS is present at the time, the deputy may request assistance to retrieve contraband if feasible.

2. Consensual strip searches must be documented in a Field Interview or narrative supplement.

F. Collection of DNA Evidence via a buccal swab.

1. If a deputy wants to obtain a buccal swab from an adult suspect, the deputy must obtain consent, obtain a search warrant, or obtain a Non-Testimonial Order (NTO).

   a. For out-of-custody suspects, a deputy must:
      1) Obtain consent;
      2) Obtain a search warrant; or
      3) Appy for an NTO in conjunction with the assigned prosecutor.

   b. For in-custody suspects, a deputy must:
      1) Obtain consent; or
      2) Obtain a search warrant.

2. A deputy must obtain a buccal swab form an adult suspect upon arrest if a magistrate has found that there is probable cause to believe the suspect has committed one of the

offenses listed in G.S. 15A-266.3A(f)&(g). If the suspect does not consent, force may not be used, and a search warrant must be obtained.

3. A deputy may use reasonable force to execute a search warrant for a suspect's DNA via a buccal swab.

4. If a deputy wants to obtain a buccal swab from an uncharged juvenile suspect or a charged juvenile suspect, the deputy must obtain an NTO.

VI. SEARCHES CONDUCTED WITH WARRANTS

Requirements for Search Warrants and a Non-Testimonial Application and Order (NTO)

A. A search warrant must be obtained if the person is in custody and he or she has not provided consent.

B. Deputies must obtain a search warrant prior to requesting medical personnel to retrieve any illegal substances that have been hidden in a body cavity or ingested.

C. Any search warrant served on a person to obtain items of evidentiary value (buccal, blood, photos, hair follicles, etc.) will be documented by a supervisor in the Professional Standards unit and require an investigation.

D. The NTO may be used to obtain fingerprints, palm prints, footprints, measurements, urine specimens, saliva samples, hair samples, other reasonable physical examination, handwriting exemplars, voice samples, photographs and lineups or similar identification procedures requiring the presence of a suspect. If blood is needed, a search warrant is required.

E. The NTO requires probable cause for a felony or Class A1 or Class 1 misdemeanor and there are reasonable grounds to believe the person committed the offense and that the results will be of material aid in determining if the person named in the affidavit committed the offense.

F. The NTO is completed by a deputy or detective and presented by an Assistant District Attorney. A Judge will approve and sign the NTO which should include the time and place for the appearance of the suspect. The NTO may not be served on a suspect while in custody.

VII. WARRANTLESS VEHICLE SEARCHES

A. Vehicle Exception
The vehicle exception provides that if a deputy has probable cause to believe that a vehicle has evidence of a crime or contraband located in it, a search of that vehicle

may be conducted without first obtaining a warrant if the vehicle is located in a public place (where the suspect has no expectation of privacy) or a public vehicular area.

Scope of search

a. Every part of the vehicle where the object of the search could be located including the trunk can be searched.
b. A search conducted pursuant to the vehicle exception may be conducted at the scene or after the vehicle has been impounded.

B. Consent Searches

1. Requirements
The consent to search must be voluntary and obtained from either:

a. The registered owner of a vehicle to be searched or the person in apparent control of the vehicle, such as the driver, at the time the consent is given. If the registered owner is present, his or her consent must be obtained.

b. Consent searches must be documented by completing the Stop Data Form.

c. During a consent search deputies who are issued a body worn camera (BWC) must comply with BCSO BWC Policy.

2. Scope of the search

a. The scope of the search is governed by the terms of the consent.

b. Deputies may not destroy property, such as portions of a vehicle, based solely on a general consent unless given specific permission by the registered owner of the vehicle.

3. Withdrawn consent
The person who consents to the search may, at any time during the course of the search, withdraw that consent. However, it is not required that deputies advise the person that he or she can withdraw consent, or that he or she has a right to refuse consent. If consent is withdrawn the deputy must stop the search unless probable cause exists to continue the search.

C. Frisk of vehicles

1. Requirement
Deputies are conducting a lawful detention of the vehicle; and deputies have reasonable suspicion to believe a person has access to a weapon and is therefore dangerous.

2. Scope of the search

Deputies may frisk the interior passenger area of a vehicle and any containers that are accessible and capable of containing a weapon.

D. Search incident to arrest

1. Requirement
The arrest of an occupant or recent occupant of the vehicle.

2. Scope of search

a. Deputies may search the arrestee's person.
b. When deputies have reason to believe the vehicle contains evidence of the offense for which the person is being arrested, deputies may search the entire interior of the vehicle where the evidence could be located including, the glove compartment or any other compartment whether locked or unlocked and all containers found within the interior of the vehicle. The trunk of a vehicle is not subject to search as incident to an arrest.

E. Inventory Search

1. Any deputy having a vehicle towed will conduct an inventory of the interior and trunk areas in order to record all property in the vehicle.

2. Locked, sealed or closed containers such as suitcases, packages or boxes will be opened when the contents cannot be determined from an examination of the container's exterior. However, locked or sealed items will not be forcibly opened in order to inventory the contents if doing so will cause damage to the container. The vehicle's trunk and/or glove compartment will not be forcibly opened in order to inventory the contents of these areas.

3. Inventory searches will be documented on the Tow/Storage Report.

VIII. STRUCTURE SEARCHES

1. WARRANTLESS SEARCHES

A. Consent Searches

1) Requirements
The consent to search must be voluntary and obtained from a person who by ownership or otherwise is entitled to give consent to a search of the premises.

a. Note that when a physically present co-occupant of a dwelling refuses to consent, it is a refusal even if other occupants consent to a search.

b. Consent searches must be documented on body camera.

c. Refer to BCSO policy regarding Arbitrary Profiling for policy regarding consent searches of a person's property based on a non-arbitrary articulable reason.

d. Refer to BCSO policy Body Worn Camera (BWC) for policy regarding the recording of consent searches.

2. Scope of the search

a. The scope of the search is governed by the terms of the consent.

b. Deputies may not destroy property, such as doors, locks, etc., based solely on a general consent unless given specific permission by the consenter.

3. Withdrawn consent:
The person who consents to the search may, at any time during the course of the search, withdraw that consent. However, it is not required that police deputies advise the person that he or she can withdraw consent, or that he or she has a right to refuse consent.

4. Probable cause exception
If consent is withdrawn, the search will cease immediately, unless probable cause to arrest or continue the search has been established prior to consent being withdrawn. If probable cause to arrest has been established the rules related to search incident to arrest should be followed. If probable cause is established to continue searching in a dwelling, a search warrant should be obtained unless there are exigent circumstances.

5. Advantages of voluntary consent
Deputies should always consider requesting voluntary consent because the consent given may exceed the scope authorized by law.

B. Protective Sweep of Structures

1. Requirements

a. Deputies have a legitimate reason to be at the location;

b. Deputies have reasonable suspicion to believe a person is dangerous and that a weapon could be nearby and used to harm them.

2. Scope of the search
Structures: Deputies may conduct a protective sweep of a structure when they have reasonable suspicion that individuals present may have access to dangerous weapons. The scope of the protective sweep is limited to searching for people.

C. Search incident to arrest

1. Requirements

Deputies must have probable cause to place a person under arrest and deputies must intend to arrest the individual. Deputies can always search the arrestee's person and area within the arrestee's immediate control. The scope of the search of the area will depend on the location of the arrest.

2. Scope of search

Arrest of an occupant in a building

a. Deputies may search the arrestee's person.

b. Deputies may search the area within the arrestee's immediate control where the arrestee might gain control of a weapon or destroy evidence.

D. Warrantless Emergency / Exigent Entry

There are limited circumstances when deputies may enter a residence without an arrest or search warrant. The requirements for such entries are set forth below. When deputies are unsure if the exception is applicable, they should consider securing a search warrant. Entering a residence in hot pursuit of a fleeing misdemeanor offender is not an exigent circumstance.

1. Requirements for Entry to Arrest
Deputies may enter private premises without a warrant or consent in order to arrest someone in the premises only if:

a. Someone is likely to be killed or seriously injured unless immediate warrantless action is taken; or
b. A serious and/or dangerous criminal offender is likely to escape apprehension and/or prosecution unless immediate warrantless action is taken, and:

(1) There is probable cause to arrest the person sought; and
(2) There is probable cause to believe that the person to be arrested is physically present in the premises at the time of the entry.

2. Requirements for Entry to Preserve Evidence

a. Exigent Entry Because of Imminent Destruction of Evidence:
The court considers the following factors when determining if exigent circumstances existed when deputies enter to prevent the destruction of evidence:

(1) Information that the possessors of the contraband are aware of police presence;
(2) The ready destructibility of the contraband; and
(3) The deputy's reasonably objective belief that the contraband is about to be removed or destroyed.

b. The totality of the circumstances determines the lawfulness of the entry and the following factors apply pursuant to BCSO policy:

(1) The location is the subject of an ongoing investigation; or
(2) Deputies have prior knowledge / information about the location and the individuals that frequent it (i.e. calls for service, previous criminal activity, citizen complaints); and
(3) The possessors of the contraband are aware of law enforcement presence and deputies have probable cause to believe contraband or evidence is present and capable of imminent destruction.
(4) The smell of marijuana alone is NOT sufficient to justify an exigent entry of the residence.

c. If an exigent entry is authorized based on factors above deputies may:

(1) Cross the threshold or
(2) Enter a residence or business or
(3) Prevent an occupant from closing a door and
(4) Enter the residence to secure individuals to protect against the imminent destruction of evidence.
(5) Use what they see in plain view as further evidence to establish probable cause to obtain a search warrant or consent.

d. Once the premises are secured, no further search can be conducted unless or until:

(1) A search warrant for the premises is on the scene;
(2) Consent to search has been obtained; or
(3) New or additional exigent circumstances arise that creates the need for an additional warrantless search.

3. Requirements for Entry of Crime Scene

a. A deputy may enter a private premises crime scene, without a warrant or consent, in order to:

(1) Locate and secure suspects; and/or
(2) Provide assistance to injured persons or others requiring emergency assistance;

b. Once the actions described above are completed, no further search will be conducted unless or until:

(1) A search warrant for the premises is on the scene; or
(2) Consent to search has been obtained; or
(3) New or additional exigent circumstances arise necessitating a further search.

4. Entering Structures and Premises for Urgent Necessity

a. Requirements
When a deputy reasonably believes that doing so is urgently necessary to save life, prevent serious bodily harm, or avert or control public catastrophe, pursuant to N.C.G.S 15A-285, the deputy may take one or more of the following actions:

(1) Enter structures and other premises,
(2) Limit or restrict the presence of persons in premises or area, or
(3) Exercise control over the property of others.

b. Scope of Action
An action taken to enforce the law or to seize a person or evidence for criminal prosecution cannot be justified by authority of this section.

c. Raid and Search Reports
An incident report will be entered into RMS and must be completed following a search conducted pursuant to N.C.G.S. 15A-285.

5. Requirements for Entry to Secure a Structure:

A deputy who enters an unoccupied structure or residence during the course of an investigation of an alarm call or an unsecured structure will document the entry in a Miscellaneous Incident Report and notify his/her supervisor. Deputies can enter when they reasonably believe that a crime, injury to person, etc. exists.

E. Notification Procedures for Warrantless Non-Consensual Entries

1. Deputies will notify their supervisor of their intent to conduct a warrantless non-consensual entry prior to entering the premises to conduct a search.

2. When, due to exigent circumstances, the deputy has no opportunity to contact a supervisor prior to such a search, the supervisor will be notified as soon possible.

3. The supervisor will respond to the scene, review the circumstances, and determine if the search should continue.

4. An incident report will be entered following the search with special emphasis placed on the facts that precipitated the search and gave rise to exigent circumstances.

IX. SEARCHING PREMISES WITH ARREST WARRANT OR VALID COMMITMENT ORDER

Non-consensual Entry into a Private Premises to Locate and Arrest

A. Deputies may make a non-consensual entry into a suspect's premises to arrest only if an arrest warrant or valid commitment order for that person has been obtained, an original of the warrant or order is at the scene, deputies reasonably believe that the place to be entered is the suspect's residence, and/or there is probable cause to believe that the suspect is on the premises, unless exigent circumstances justify entry without an arrest warrant. While it is preferred deputies have a printout of the warrant or order from NCAWARE at the scene whenever practicable, the electronic version in NCAWARE on a patrol car laptop is sufficient since it is also considered an original.

B. Deputies may make a non-consensual entry into a third party's premises to arrest the subject of an arrest warrant only if a search warrant has been obtained for the premises, it is at the scene, and there is probable cause to believe that the suspect is on the premises, unless exigent circumstances justify an entry without a search warrant.

C. A deputy may enter the premises when consent is given by an appropriate resident. Consent must be given by the person whose premises are to be entered or by a person who, by ownership or otherwise, is reasonably and apparently entitled to give or withhold consent. For example, assume the respondent and a third party share an apartment. The third party may give a deputy permission to enter common areas of the apartment such as a kitchen or living room. However, the third party cannot consent to the deputy entering areas of the apartment over which he does not possess common authority, such as the respondent's bedroom or private bath. If the respondent is in the residence of a third party and the third-party refuses to give consent to law enforcement to enter and take custody of the respondent, the deputy must weigh all the facts and circumstances to determine whether or not the situation rises to the level of urgent necessity and whether an additional court order to gain entry should be sought.

D. Before entering, deputies must knock and give appropriate notice of their identity and purpose to the person in apparent control of the premises to be entered. After announcing their identity and purpose, and if the deputies believe that admittance is being denied or unreasonably delayed, the force necessary to complete the entry may be used.

Nothing in this subsection prohibits deputies from entering under the exigency exception to the search warrant requirement if deputies observe an intervening exigent circumstance that would endanger the life or safety of any person.

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X. SEARCH WARRANT PROCEDURE:

The basis for the issuance of a warrant is Probable Cause.

A. The deputy seeking the search warrant will complete a de-confliction check prior to seeking the warrant.

B. Affidavit for Search Warrant:

1. A search warrant must be based upon a duly sworn to and subscribed to affidavit which sets forth facts to establish probable cause to believe that the property sought to be seized is upon the premises, person, or vehicle to be searched.

2. A search warrant must describe the place to be searched with sufficient particularity so that a reasonable person who is unfamiliar with the investigation could read the description and find the premises, person or vehicle to be searched.

3. A search warrant must particularly describe the property obtained to be seized.

4. A confidential source can provide sufficient probable cause upon which to base a sworn affidavit for a search warrant.

5. The signature of any NC Superior Court Judge must be sought for a search warrant that will be served in another NC county.

C. Execution of a Search Warrant:

1. A search warrant and its attendant sworn affidavit must be reviewed and signed by a judicial official and must be executed and returned to the clerk/magistrate.

2. Prior to the execution of an out of agency search warrant, BCSO deputies shall review it for probable cause and check to see if it is signed by a North Carolina Superior Court Judge. If the supervising deputy determines no probable cause exists, BCSO deputies should not execute the out of agency search warrant.

3. "Knock and Announce" required:

a. BCSO will not seek or serve 'No-Knock' search warrants.

b. A deputy engaged in the execution of a search warrant must give notice to those within the premises of the deputy's presence by knocking and announcing his/her authority and the purpose of his/her presence before making entry.

c. If the deputy executing a search warrant believes that he/she is being denied entry after giving due notice of his/her authority and purpose, the deputy may use reasonable force to gain entry.

d. Nothing in this subsection prohibits deputies from entering under the exigency exception to the search warrant requirement if deputies observe an intervening exigent circumstance that would endanger the life or safety of any person.

D. Preparation of the Plan for Execution of the Search

1. Responsibilities of the Division Captain, Lieutenant, or Operations Commander

   a. The Division Lieutenant, Captain, or Operations Commander will review the search warrant application prior to presentation to the judicial official.

   b. The Division Lieutenant, Captain, or Operations Commander will designate a law enforcement supervisor to be present at the scene and in charge of the search.

   c. It is recommended the Division Lieutenant, Captain, Operations Commander, or law enforcement supervisor will request assistance from the SRT Team if the threshold is met he or she determines the warrant to be high risk.

2. In the event a Division Lieutenant, Captain or Operations Commander is not available, a Criminal Investigations Division supervisor of the rank of Sergeant or above may assume the responsibilities of the Division Lieutenant, Captain or Operations Commander.

3. When a search warrant is initiated by a deputy assigned to the Buncombe County Anti-Crime task force (BCAT), his or her supervisor of the rank of Sergeant or above may assume the responsibilities of the Division or Operations Commander as outlined above.

4. The supervisor in charge of the search will notify:

a. The supervisor in the division where a search is being conducted;

5. The supervisor directing the search will:

   a. Review the affidavit and search warrant for accuracy and validity. (The reviewer should not sign, initial or mark the affidavit or search warrant.)

   b. Identify any existing hazards.

c. Determine the personnel needed, giving consideration to utilizing on-duty deputies with special training.

1) The supervisor may request the assistance of SRT.

2) If it is determined to be a warrant service not needing the assistance of SRT, deputies making entry will have successfully completed the BCSO Basic Dynamic Entry School.

d. Determine the equipment needed, (e.g., camera, extra handcuffs, and weapons).

e. Notify an on-duty supervisor of that agency when the warrant is to be executed outside of BCSO jurisdiction.

f. Ensure all deputies involved in the search have participated in the pre-search briefing. Instruct participating deputies of the plan for the search and of their job assignments; ensure that each individual understands his/her role and if necessary, reduce each assignment to writing. All deputies involved in the search must participate in the pre-search briefing.

g. Call additional personnel if exigent circumstances develop during the search that requires additional personnel.

h. Be present at the scene of the search.

i. Ensure that the first deputy to enter the premises is a uniformed deputy.

j. Ensure that all non-uniformed personnel are wearing proper BCSO search attire.

k. Make every reasonable effort to ensure that the correct premises are being entered by verifying the address and by verifying the house or structure description.

l. Ensure compliance by all personnel issued a BWC with BCSO Policy during the search.

E. Conducting the Search

1. Entry into the premises:

a. If it is unclear whether anyone is present at the premises to be searched, notice must be given in a manner likely to be heard by anyone who is present.

b. The first person(s) to enter the premises must be in BCSO uniform. Non-uniformed deputies will wear proper BCSO search attire.

c. A supervisor will be on scene at the time when a search warrant for a commercial or residential structure where a search warrant is executed.

2. When entry is made, deputies will assist in securing the premises and its occupants, guarding exits, and providing communications support to the deputies conducting the search.

3. After the occupants are secure, the deputy in charge of the search, or his/her designee, must read the warrant (excluding application) and give a copy of the warrant application and affidavit to the person in charge of the premises. If the premises are unoccupied, a copy of the warrant must be left at the premises in a conspicuous location and the warrant does not need to be read aloud to an empty structure.

4. Securing the Occupants of the Premises

   a. Prior to beginning the search, any person present can be patted down (frisk only) if the deputy reasonably suspects that the person is armed.

   b. Persons present at a search of a private premise may be detained by the search party. If the search fails to produce the items named in the warrant, and those items may be concealed upon a person, then those persons present may then be searched for the same type of items which, if found, may be seized and used as evidence. (All controlled substances are considered the same type of property if any controlled substances are listed in the warrant). Any other type of property found during a search of persons under such circumstances may not be used for prosecution, but may be seized if it is contraband or stolen property.

5. Photographs of the premises will be taken before and after the search if applicable.

6. The supervisor will designate an individual responsible for collecting and submitting evidence.

7. Evidence discovered in different locations on the premises will be placed in separate envelopes or containers by the deputy responsible for collecting evidence, and marked to indicate where it was found and by whom.

8. Notes will be taken describing the location of evidence.

9. The deputy who obtains the search warrant will make every reasonable effort to determine the identity of the owner or occupant of record for the premises where the search was conducted.

F. Raid and Search Report:

At the completion of the search, the supervisor in charge will initiate an incident report prior to the supervisor completing his/her shift.

G. Return of Search Warrant:

A search warrant must be executed within 48 hours of issuance. After service, the deputy responsible for drawing the search warrant will return the warrant, with a written inventory of the seized items, to the Magistrate's Office without unreasonable delay.
The deputy will obtain a signed copy of the returned warrant to put in the deputy's own court file. The inventory must be signed and sworn to by the deputy who obtained the warrant.

H. Receipt after Seizure of Property:

If property is seized during the course of a search, even if by consent, the deputy in charge will deliver a copy of the BCSO Inventory, listing the property taken, to the party from whom the property was taken, or to the party in charge of the premises from which the property was taken. If no one is present to accept a copy of the form, the deputy will leave the copy in a conspicuous location in the premises or vehicle that was searched.

I. Impounded Coin and Currency:

Impounded coin and currency will be itemized on a Property voucher, not combined with other property (wallets, checkbooks, etc.) and in compliance with BCSO Policy Currency and Asset Forfeiture Procedures.

J. Federal Search Warrants:

Task Force Deputies (TFD's) or other BCSO deputies working in conjunction with federal law enforcement agencies will follow the listed guidelines of the respective agency.

XI. DEFINITIONS:

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Buccal Swab: A swabbing of the cheek area for a person's DNA to compare to evidence collected from a crime scene or from a victim.

Computer Forensic Specialist: A member of the department specially trained in the techniques of computer data recovery and seizure. It is the role of the Computer Forensic Specialist to conduct evidentiary searches of electronic media and to report the findings to the employee assigned to investigate the involved case.

Computer System: Computer monitor, CPU, communication device, PDA, data storage device, or peripherals configured to work together as a unit or cabled together externally.

Consent Search: A clear and voluntary expression by a person to allow a deputy to search their person or property of the consenting party or property over which the consenting party has apparent control. Consent may be requested when there is a non-arbitrary, articulable reason.

Crime Scene: A location where a crime has occurred or where evidence of a crime is located and there is an apparent need for investigative action and/or emergency services. (Examples: homicide scenes, fire scenes, scenes of burglaries or break-ins, etc.) Note: The mere presence of contraband or evidence in private premises does not make such premises a "crime scene" for purposes of this definition.

Electronic Device: Smart Phone, Digital Camera, CD ROM, CDR, floppy drive, tape drive, zip drive, jazz drive, magneto-optical drive, hard drive, and/or other mechanical, electrical, optical, or combination device used to store data that may or may not be currently connected to an operating system.

Electronic Media: Any material, written or photographic, that is actually stored on an electronic device.

Frisk: During a lawful detention and when the deputy has reasonable suspicion to believe the person is armed and dangerous; the deputy may frisk the person by patting down the person's outer clothing to determine whether the person has a weapon. During the pat-down, if a deputy feels a weapon, the deputy may retrieve that weapon. If during the frisk, a deputy feels an item that the deputy immediately knows is contraband (i.e. probable cause) then the deputy may seize that item.

High Risk Warrant: An arrest or search warrant for which one or more of the following factors is reasonably likely to exist (note: the more factors that exist, the higher the risk).

a. The subject of the warrant has a history of violence and/or has several arrests for violent offenses or has violently resisted apprehension in the past.

b. The occupants of the structure or area to be searched are armed with dangerous weapon(s) and armed resistance is likely.

c. The structure is fortified or barricaded and special equipment is needed to gain entry.

d. The safe execution of the warrant requires the use of specialized skills, tactics, and/or equipment.

Impounding Deputy: The deputy responsible for collecting and submitting evidence.

Inventory Search: An administrative action to protect and account for property located on a detained or arrested person. The inventory search is necessary to isolate dangerous items from police and jail facilities.

Manual Body Cavity Search: A digital touching or probing of the anal or vaginal cavity by another person.

Network: Any two or more computer systems connected together that can communicate with each other and share resources.

No-Knock Warrant: A search warrant authorizing deputies to enter certain premises without first knocking and announcing their presence or purpose prior to entering. Such warrants are issued where an announcement prior to entry would lead to the destruction of evidence or would compromise the safety of the deputy(s) or another individual.

Non-consensual Entry: An entry into premises which is made by deputies without first obtaining consent from a person who has lawful authority to give consent. Such an entry may or may not be accompanied by some degree of force or damage to the premises.

Non-Testimonial Orders (NTO) and applications: An order issued by a judge upon the request of the ADA with the deputy as the affiant for the collection of identification procedures requiring the presence of the suspect.

Operating System: Software used to allow the equipment in an electronic device to interact with any applications and the user. Examples include DOS, Windows 3.x, Windows 95/98, 2000, XP, Windows NT, Macintosh, Unix, Linux, OS/2, and Novell.

Private Location: The physical location where a person search takes place out of the public view.

Private Parts: The pelvic area which is below the beltline of a male or female and the breasts of a female.

Probable cause search of a person: Probable cause to search a person when a deputy believes a person is in possession of contraband or an illegal item, the deputy may search the person for that item and may contemporaneously arrest the person.

Protective Sweep: A limited search of a structure or vehicle when a deputy has reasonable suspicion to believe that a person is dangerous and a weapon could be nearby and be used against an deputy.

Public Vehicular Area: Any area that is used by the public for vehicular traffic at any time, including hospitals, educational institutions, houses of worship or any facilities maintained and supported by the State of North Carolina or any of its subdivisions. Any commercial business,

residential, or municipal establishment providing parking space whether the business or establishment is open or closed. Any road used by vehicular traffic within or leading to a gated or non-gated subdivision or community, whether or not the subdivision or community roads have been offered for dedication to the public or portion of private property used by vehicular traffic and designated by the private property owner as a public vehicular area.

Raid and Search Report: The electronic report required to be entered by the lead deputy in an emergency search of a structure or in a search executed pursuant to a search warrant.

Raid and Search Supervisor IACMS Report: An electronic report required to be completed by a supervisor containing all written documents and relevant photographs related to an emergency search of a structure or a search executed pursuant to a search warrant.

Search: The organized, planned search of a person, vehicle, structure, or an area to locate and to secure evidence and/or apprehend suspects.

Search Attire: Deputies must be wearing a bulletproof vest, BCSO duty gear, handcuffs, flashlight and a gun. If not in uniform the outer most garments must be immediately recognizable as being a sworn BCSO deputy.

Search Incident to Arrest: The right of a deputy to search a person placed under arrest. Separate from the right to search the arrestee's person, deputies may additionally search a limited area to prevent the arrestee's use of a weapon and/or the destruction of evidence. The scope of the search will depend on the location of the arrest.

Search Incident to the Arrest of a Person: When a person is arrested, a deputy automatically has the right to conduct a search of arrestee's person and the area, within the arrestee's immediate control.

Search Warrant: A written order, signed by a magistrate or other judicial authority, directing a police deputy to search a specific location for specified property or persons.

Strip Search: A search involving the removal of some or all of a person's clothing covering any private body parts, a search of the clothing and a squat and cough.

Supervisor: A person of the rank of sergeant or above.

Electronic Evidence Tool Kit: Used to document, remove, package, and transport electronic evidence and consists of:

a. Cameras;
b. Crime scene tape;
c. Stick-on labels;
d. Notepads, markers, evidence forms, and sketchpads.
e. Anti-static bags (original silver or chrome packages in which hard drives are shipped) used to store hard drives, floppy disks, zip disks, etc. in an effort to prevent electrostatic charges and magnetic fields. Appropriately sized paper bags may also be used if anti-static bags are unavailable.

Vehicle Exception: A warrantless search of a vehicle located in a public place or PVA based on probable cause.

Visual Body Cavity Search: A visual search which requires a person to expose his anal cavity or her anal and vaginal cavities for visual inspection.

VI. REFERENCES

G.S. 15A- 271, et. seq.

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