

12.3 Search of a Building, Domicile, or Other Structure

This directive is not to prohibit or otherwise interfere with any legitimate law enforcement activity, right, or privilege granted under any other Office policy or procedure, or by statute, ordinance, or case law (e.g., *fresh pursuit*).

12.3.1 On-View Criminal Violations

Any on-view criminal violations identified in a domicile or other structure incident to a lawful search will be handled in accordance with the direction given in Chapter 12.1, *On-View & Court-Ordered Arrests*, Chapter 9.2, *Recovered Property & Evidence*, and Chapter 1.3, *Inter-Agency Memoranda of Agreements*, in this General Orders Manual.

12.3.2 Non-Consensual Search or Forced Entry

Prior to effecting any non-consensual search or forcible entry:

- The deputy must have a valid warrant or other court order establishing legal authorization to take the named person into custody.
- The deputy must have knowledge the wanted person resides at the residence.
- The deputy must have a reasonable belief the subject is currently on the premises.
- No less than two (2) deputies or other peace officers will be on the scene; and
- A supervisor, or in his/her absence the senior deputy on shift, must be notified of a deputy's intent to pursue such an undertaking; and

- Absent grossly extenuating circumstances, the deputy must provide occupants an opportunity to comply by “knocking” and audibly declaring his/her intentions.

The aforementioned conditions are the most rudimentary and are in addition to any other requirements as stated in the remainder of this directive.

12.3.3 Exigent Circumstances and Emergencies

Deputies may make a warrantless *public safety search* of anything or anyone when they have good cause to believe it is necessary to protect life or prevent injury.

12.3.4 Execution of an Arrest or Bench Warrant

A deputy attempting to execute an *arrest warrant* or *bench warrant* has the right under *Payton v. New York*, 445 U.S. 573, 100 S.Ct. 1371 (1980), to search a residence or other structure for a wanted individual if the deputy has a reasonable belief (1) that the wanted subject is currently present; and (2) that the wanted subject resides there or has some significant connection there or has some common authority there. The United States Supreme Court has held that,

[F]or Fourth Amendment purposes, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the subject lives when there is reason to believe the suspect is within.

The search may encompass places adequate in size to hide the “wanted” individual. Once the wanted subject is located, an additional search of the subject’s “lunge area” is permissible.

Providing all other criteria have been met, a forcible entry (including efforts up to, but not including, the damaging of a door) or a non-consensual search may be effected when entrance is denied; and:

- the deputy has knowledge that the wanted person is a resident of, or is otherwise known to reside at, the location to be searched; and
- the deputy has a reasonable belief that the wanted person could be in the residence (e.g., information from neighbors, time of day, a vehicle used by the wanted person parked at or near the location, surveillance, or informant information).

The damaging of doors to gain entry to a domicile or other structure to effect an arrest should only be used when all other reasonable avenues have been exhausted. In the event that it should become necessary to damage a door, deputies are held to a higher standard, and must have a *reasonable degree of certainty the subject is currently inside*.

Unless explicitly provided for, a forcible entry is specifically prohibited when executing a *body attachment*. Upon gaining a consensual entrance, a deputy may initiate a search for the wanted person regardless of resident approval.

Once a suspect or defendant has been apprehended, a search must cease, excepting the subject's "lunge area" and/or a *protective sweep* of adjoining rooms and areas.

The authority granted deputies in this section concurrently extends to the execution of juvenile detention orders, emergency evaluation petitions, certain child custody orders, parole retake warrants, hospital warrants, fugitive warrants, governor's warrants, and similar documents.

12.3.5 Eviction or Ejectment

A deputy conducting an eviction or ejectment possesses the blanket authority to search all items being removed from the residence by any person other than the personal property owner, or his/her designated representative. There is an inherent obligation to search throughout the abode or building for items which pose a threat to public safety. This includes illegal items, contraband, and other property which when unsupervised may be detrimental to the public welfare (e.g., pornography, household chemicals, or knives).