

**I. PURPOSE**

To provide guidelines to deputy sheriffs of this agency in the constitutional requirements of search and seizure.

**II. POLICY**

It is the policy of the Fairfax County Sheriff's Office that citizen's Fourth Amendment rights against illegal search and seizure will not be compromised.

**III. PROCEDURE**

A. Search Warrants

1. Deputies will obtain search warrants upon probable cause in all appropriate criminal cases except for the following circumstances:
  - a. Consent searches.
  - b. Emergency searches.
  - c. Plain view.
  - d. Abandoned property and open fields.
  - e. Inventory search of vehicles.
  - f. When executing arrest warrants.
  - g. Incident to arrest.
  - h. Pat-downs of suspicious persons.
2. [Virginia Code § 19.2-52](#) states that a judge or magistrate may issue a warrant if:
  - a. There is a reasonable and probable cause to do so.
  - b. There is a complaint on oath supported by an affidavit.
3. [Virginia Code § 19.2-53](#) states that warrants may be issued for the search of specified places, things, or persons, and seizure there from the following things as specified in the warrant:
  - a. Weapons and other objects used in the commission of a crime.
  - b. Articles of which the sale or possession is unlawful.
  - c. Stolen property or the fruits of any crime.
  - d. Any object constituting evidence of a crime.
4. Search warrants must be obtained in the jurisdiction where the place or person to be searched is located. Virginia Code 19.2-52 states that search warrants may be obtained from any of these sources:
  - a. Any judge.
  - b. Any magistrate; or
  - c. Any other person having the authority to issue criminal warrants.

B. Types of Searches

1. Consent - A search warrant is not necessary when a person who has authority or control over the thing or place searched consents to the search. This consent must be given voluntarily and the person who gives the consent may withdraw it

at any time. If the consent is withdrawn, deputies will then secure the premises and seek a warrant.

2. Emergency Searches - A search warrant is not necessary in an emergency. An emergency is sometimes termed "exigent circumstances." If deputies enter a premises with probable cause to believe that critical evidence may be destroyed or removed unless immediate action is taken, they may enter without a warrant, secure the premises, and obtain a search warrant before proceeding further unless they have obtained consent to search, or some new circumstances arise necessitating another warrant less search.
3. Plain View - This is technically not a search. To make a plain view seizure of property (contraband, fruits or instruments of the crime)the deputy must follow these requirements.
  - a. The seizure must take place where the deputy has legally observed the property; and
  - b. It must be immediately apparent to the deputy that the items he or she observes may be evidence of a crime, contraband or otherwise subject to seizure.
  - c. The deputy may not move items, look inside, underneath, or behind them for serial numbers or other identifying marks. If such movement is necessary, the deputies will obtain a warrant.
4. Stop and Frisk - A law enforcement officer may temporarily detain a person in a public place if reasonable suspicion exists that a felony has been committed, is being committed, or is about to be committed; or the deputy reasonably suspects that a person is illegally carrying a concealed weapon in violation of [Virginia Code § 18.2-308](#).
  - a. Stop - The detention of a subject for a brief period of time. In order to make the stop, the deputy must have reasonable suspicion to believe that criminal activity is afoot and the individual to be stopped is involved.
  - b. Frisk - Should the deputy reasonably believe that the person stopped intends to do him bodily harm or is carrying a concealed weapon, the deputy may conduct a limited search of the person's outer clothing.

**C. Seized Property**

1. If through the course of a search or through the course of a criminal investigation property is seized that a deputy believes is subject to forfeiture, the deputy shall:
  - a. Secure the property in accordance with proper procedures and document the property seized/stored.
  - b. Notify the Office of the Commonwealth's Attorney in writing of the seized property and a request for forfeiture proceedings. Such notice and request shall include the following:
    - 1) A specific description of the property seized.

**FAIRFAX COUNTY SHERIFF'S OFFICE  
STANDARD OPERATING PROCEDURE**

**SOP NUMBER: 033a  
SUBJECT: SEARCH AND SEIZURE**

- 2) The grounds for seizure in general terms.
  - 3) The date on which the seizure occurred, and
  - 4) The identity of all owners and lien holders then known of record, including the treasurer of the locality in which the seized property is located.
- c. Follow up with the Office of the Commonwealth's Attorney in-person after providing written notice.
- d. Generate a Sheriff's Office Incident Report (SIRS) on any such case. In addition to documenting the property and reasons for forfeiture, the SIRS shall include documentation of the above steps and a copy of the aforementioned written notice.

03/10/99  
EFFECTIVE DATE

10/29/2020  
DATE APPROVED



**STACEY A. KINCAID  
SHERIFF**

**Revised:** October 2020