

**Cobb County Police Department**

**Policy 5.07**

**ENTRY INTO PRIVATE PREMISES**

<b>Effective Date:</b> January 12, 2013
<b>Rescinds:</b> Policy 5.07 (September 30, 2007)
<b>Related Orders:</b> None
<b>Issued By:</b> Chief J.R. Houser <span style="float: right;"><b>Page 1 of 5</b></span>
The words "he, his, him," which may appear in this policy, are used generically for clarity and ease of reading. These terms are not meant to imply gender and relate to all employees of the Department.

The purpose of this policy is to establish guidelines for Cobb County Police personnel when faced with a situation of making entry into private premises.

**I. POLICY**

- A.** There are three ways to enter private premises:
  - 1. With Consent
  - 2. With a Warrant
  - 3. Exigent Circumstances
- B.** Officers will enter a private premise only if one of these conditions exist.

**II. CONSENT**

If the officer has obtained consent (permission) from a person who has authority to grant consent or permission to enter a private premise, then a warrant is not needed.

**III. WARRANT**

If the officer does not have consent to enter, then a warrant must be obtained, or exigent circumstances must exist.

**A. Arrest Warrant**

- 1. To make entry into private premises to arrest a suspect requires the presence of two additional factors:
  - a. Probable cause exists to arrest the person believed to be inside.

- b. Probable cause to believe the person to be arrested is currently inside the premises.
2. An arrest warrant does not automatically give an officer the right to force entry into a private premises to look for the suspect without the existence of the probable cause factors.
3. In order to force entry into a residence to serve an arrest warrant it is necessary that the address of the residence be included in the warrant. Otherwise, it is considered to be a third party residence.
4. Forced entry at a third party address without consent or exigent circumstances, will also require a search warrant.

**B. Search Warrant**

1. If the entry is for the purpose of searching for evidence or contraband, a search warrant is necessary.
2. A search warrant must particularly describe the person or place to be searched, and the item or items to be seized.
3. The search warrant must also state the probable cause to believe the item(s) being searched for are currently at the place to be searched.
4. It must further show that the item(s) are evidence of a crime or that their possession constitutes a particular crime.

**IV. EXIGENT CIRCUMSTANCES**

**A.** Whenever entry must be made into private premises without consent or a warrant, exigent circumstances must exist.

1. Generally, exigent circumstances are considered to be an emergency situation which demands immediate attention. Not all emergencies or time-critical circumstances are an exigent circumstance.
2. Not all hot pursuits are exigent circumstances. In *Welsh v. Wisconsin* (1985) the U.S. Supreme Court ruled that the seriousness of the underlying offense is an important factor in determining exigent circumstances.

**B.** The following listed circumstances will be considered as exigent circumstances by the Cobb County Police Department.

1. Hot Pursuit

- a. Any officer who begins an arrest in a public place and, as a result of the arrest process, begins an immediate, continuous hot pursuit of the suspect into his home may continue to effect the arrest. U.S. v. Santana (96 S. Ct. 2406 (1976) states that once the arrest has begun in public, the arrestee cannot thwart the arrest by simply beating the officer to the door.
- b. For purposes of this policy, public place shall mean anywhere the officer is legally present and begins a hot pursuit.
- c. Officers may enter private premises without a warrant or consent in order to arrest a suspect in the premises during hot pursuit when:
  - 1) Someone is likely to be killed or seriously injured unless immediate warrantless action is taken; or
  - 2) A serious and/or dangerous criminal offender is likely to escape apprehension and/or prosecution unless immediate warrantless action is taken; and
  - 3) There is probable cause to arrest the person sought; and
  - 4) 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. Entry to Preserve Evidence

- a. If there is probable cause to believe that critical evidence of a serious and/or dangerous offense is located within private premises, and that the evidence is almost certain to be destroyed or removed unless immediate warrantless action is taken, the officer may enter without a warrant or consent to secure the premises while awaiting the arrival of a search warrant.
- b. Once the premises are secured, no further search shall 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 emergency circumstances arise, necessitating an additional warrantless search.

3. Crime Scenes

- a. For the purpose of this subsection, a "crime scene" is a location where a crime has very recently occurred and where there is an apparent need for investigative action and/or emergency services (Example: homicide scenes, fire scenes, scenes of burglaries or break-ins).
- b. The mere presence of contraband or evidence in private premises does not make those premises a crime scene.
- c. Upon arriving at a crime scene in private premises, the officer may enter the premises without a warrant or consent in order to:
  - 1) Locate and secure perpetrators; and/or
  - 2) Provide assistance to injured or other persons requiring emergency assistance; and/or
  - 3) Locate and secure evidence which is likely to be lost or destroyed by the mere passage of time.
- d. Once the actions described above are completed, no further search shall 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 emergency circumstances arise, necessitating further search.

4. Other Emergencies

Officers may enter private premises without a warrant or consent, if it reasonably appears that such action is urgently necessary in order to:

- a. Prevent death or serious physical injury.
- b. Provide needed emergency medical assistance.
- c. Guard against the imminent threat of substantial property damage.
- d. Emergency 911 Calls
  1. It is the policy of the Cobb County Police Department to consider all emergency 911 calls as possible exigent

circumstances.

2. Officers arriving on the scene of an emergency 911 call will make a diligent effort to contact the person placing the call to confirm the type of emergency and the assistance needed.
  3. If, within a reasonable length of time, the person placing the call does not answer the door, or the Communications Center is unable to determine the nature of the call, (line trouble, accidental 911 dial, etc.) the officer shall contact his immediate supervisor to determine if force should be used to enter the premises for the purpose of verifying the existence of an emergency and determining the nature of the emergency.
  4. Officers shall be expected to exercise good judgment and common sense and evaluate the totality of circumstances at the scene (such as suspicious sounds or movements inside) before attempting to make a forced entry.
  5. Before attempting to make a forced entry, adequate additional personnel to assist in the entry should be present at the scene.
  6. Once the officers have made entry into the premises, they will attempt to quickly locate the source of the emergency call and take such action as is appropriate.
- C.** In any forced entry situation, officers will ensure that the premises is secured, or some authorized person is remaining in the premises, before leaving the scene.
- D.** Any damages resulting from entry, forced or otherwise, will be documented fully in the officer's incident report.