

## INTRODUCTION

The Pima Animal Care Center may at times find it necessary to obtain search warrants to impound an animal. The need for a search usually arises out of a failure to quarantine situation or a possible cruelty/ neglect situation.

## OBJECTIVE

- To understand the scope of Search/Seizure Laws.
- To understand 4<sup>th</sup> Amendment to U.S. Constitution.
- To identify key terms.
- To understand the Pima Animal Care Center Procedures regarding Search Warrants.

## PROCEDURES

### SCOPE OF SEARCH AND SEIZURE LAWS

Much of the work that cruelty investigators carry out involves going onto private property to look for animal abuse or neglect. In doing so, the investigator must strive to achieve the necessary legal balance between protecting the welfare of the animal and respecting the rights of property owners or occupants. Therefore, basic knowledge of the laws of search and seizure is essential for an investigator to take the proper legal action when necessary.

### FOURTH AMENDMENT

The Fourth Amendment of the United States Constitution provides that “the right of the people to be secure in their houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized”.

## KEY TERMS

- Plain View
- Affidavit
- Probable Cause
- Exemptions to Search Warrant

**Plain View** - Means items falling into the view of an officer who has the right to be in a position to have that view. Anyone who places a possession in an open field, does not intend that possession to be hidden from view. Plain view has also been extended to plain hear, plain feel and plain smell.

**Affidavit** - A sworn statement, under oath and affirmation given the following :

- A. Description of place to be searched
- B. Description of things to be seized
- C. Probable cause
- D. Signed and sworn by affiant

**Probable Cause** – A reasonable ground to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime. A probable cause is needed for the issuance of a search warrant. It exists when the facts and circumstances presented to a magistrate which are within the affiants knowledge or based on reasonable trustworthy information are sufficient to warrant a reasonable person to believe that seizable items are located on the premises to be searched. It doesn't deal with certainties or “beyond a reasonable doubt”. It refers to probabilities.

### Exceptions to Search Warrant:

- a. Plain View
- b. Open Fields
- c. Exigent Circumstances
- d. Consent

Once you have compiled all of the necessary information, submit the information to the City/County Prosecutor for review. You will then go before a Magistrate (City) or a Justice of the Peace (County) to swear to the accuracy and truthfulness of your warrant. After the warrant has been signed by a judge, you will follow these steps:

- A. Contact Tucson Police Department or the Sheriffs Office and have them meet you at the residence to be searched. They will serve the Search Warrant.
- B. Give TPD or SO all of the copies of the search warrant. TPD or SO will handle the search itself and the notification of the owner of the residence being searched. Leave copy of the inventory sheet with the owner or at residence.
- C. Once the search is complete, you will leave the scene. Get all badge numbers and case numbers. The return of service form shall be returned to the issuing judge.