



SPECIAL ORDER

DATE OF ISSUE

12/16/2022

EFFECTIVE DATE

12/16/2022

NUMBER

22-34

SUBJECT

SEARCH WARRANTS AND EXECUTION POLICY

REVISIONS

Revisions are italicized

RESCINDS

Department Manual Directive 202.3, SEARCH WARRANTS AND EXECUTION

EXPIRATION DATE

12/16/2023

DISTRIBUTION

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Purpose

The purpose of this directive is to establish guidelines and procedures, which police officers shall follow when conducting searches and seizures.

Policy

The Fourth Amendment to the U.S. Constitution guarantees every citizen the right to be secure in their persons, houses, papers, and effects against unreasonable search and seizures. Search warrants are one of the most valuable and powerful tools available to law enforcement officers. Officers shall scrupulously observe constitutional guidelines when executing search warrants.

Definitions

Affidavit

An affidavit is a written declaration or statements of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a judge having authority to administer such oath.

Search Warrant

A written order, in the name of the people, signed by a magistrate or other judicial authority, directing a peace officer to search for specified personal property and bring it before the magistrate.

Legal Requirements

There must be a showing of probable cause that the property or other thing is:

- a. Stolen or embezzled in violation of any law;
- b. Designed or intended for use, or has been used as a means of committing a criminal offense;
- c. Possessed, controlled or used wholly or partially in violation of any law of this state;
- d. Evidence of a crime or criminal conduct on the part of any person;
- e. Contraband;
- f. The body of a person or of an animal which may be the victim of a criminal offense; or
- g. The object of a search warrant under any other law of this state providing for the same.

Source of Facts

The finding of probable cause is basically a finding of facts. The sources of these facts may be any or all of the following:

- a. Officer's personal observations or evidence;
- b. Information supplied to the complainant from a credible person, named or unnamed, so long as the affidavit contains affirmative allegations that the person spoke with personal knowledge of the matters contained therein; or
- c. Information presented in the affidavit substantiating the credibility of an unnamed informant, such as information supplied on past cases, which led to trial or conviction.

Obtaining a Search Warrant – General

The Wayne County Prosecutor's search warrant packet, consisting of affidavit and search warrant, shall be reviewed and approved by a supervisor before being presented to the court having jurisdiction of the case. For any narcotics-related search warrants, a Deputy Chief shall *review and* approve before being presented to the *prosecutor and* relevant court. In all cases where the place to be searched is the business premises of a newspaper, television or radio station, or other business location of the "news media," and the object of the search is for evidence of a crime or criminal conduct on the part of any person, the packet shall also be reviewed by the Chief of Police.

Preparation of the Affidavit

The affidavit and search warrant are prepared together by utilizing the Wayne County Prosecutor's Office Search Warrant Packet. The following information should be included in the affidavit:

- a. A precise accurate description of the place to be searched, which shall be broad enough to justify a search for easily concealable items;
- b. A complete description of the things to be seized;
- c. The source of the information (department member or informant);
- d. The name, if known, of the occupant of the premises to be searched;
- e. The facts of the observation which led to a conclusion that a crime has taken place on the premises, including the date of occurrence, if known;
- f. A statement as to the credibility of the informant and the information supplied, supported by facts, including any previous occasions when the informant's assistance resulted in arrests, convictions, etc.;
- g. The results of any independent investigations which tend to establish the truthfulness of the informant's statement, including any corroborative observations or knowledge by the affiant member or information from any other source; and
- h. Any and all information, which could strengthen the probable cause, since only facts placed on the affidavit, may be used at any court hearing.

3rd Circuit Court, Criminal Division

The search warrant packet and any documentation of the crime shall be presented for recommendation to an assistant prosecuting attorney on the 11th

floor of the 3rd Circuit Court during regular court hours. If the search warrant receives a favorable recommendation, the search warrant packet shall be taken to a competent authority (e.g. judge or magistrate) for review. If the competent authority (e.g. judge or magistrate) approves the warrant, the competent authority (e.g. judge or magistrate) will sign it and the requesting member will be sworn in. The search warrant packet shall then be taken for validation and control number assignment to the Felony Warrant Office, located on the 1st Floor of 36th District Court. This number shall be noted for future reference.

Obtaining a Search Warrant when Court is not in Session

In order to obtain a search warrant when court is not in session, the requesting member shall adhere to the following procedures:

- a. Call Communications Operations and request the name and telephone number of the on-call assistant prosecuting attorney. Do not attempt to contact a competent authority (e.g. judge or magistrate) before receiving a favorable recommendation from an assistant prosecuting attorney;
- b. Call the on-call assistant prosecuting attorney and provide the information regarding the circumstances;
- c. Call Communications Operations and request the name, address, and phone number of a competent authority (e.g. judge or magistrate) if the assistant prosecuting attorney recommended issuance of the search warrant; and
- d. Take the search warrant packet to the competent authority's (e.g. judge or magistrate) home or other location for approval and signature as instructed by Communications Operations or by the reviewing competent authority (e.g. judge or magistrate).
- e. *In lieu of personal delivery, the search warrant packet may be sent via department email to both the on-call prosecutor and judge or magistrate for review and approval at their request.*

If the affiant is not a department member, the judge may wish to talk to the person in- person or by phone. In addition, the competent authority (e.g. judge or magistrate) may wish to question any informants involved in the case.

Executing a Search Warrant

Preparing to Execute a Search Warrant

Before executing any search warrant absent exigent circumstances, members shall complete the DPD746 Search & Arrest Warrant Risk Assessment Matrix Form (RAM) and follow all instructions therein. This form provides a risk assessment of the execution of any search warrant through a scoring system.

Supervisory Presence and Responsibilities

The following supervisory rank shall oversee the execution of any search warrant given the below score:

- a. Should the RAM score be less than 25, a Lieutenant or above shall oversee the execution of the search warrant.

- b. Should the RAM score be 25 - 49, a Captain or above shall oversee the execution of the search warrant.
- c. Should the RAM score be greater than 50, the Special Response Team (SRT) shall be notified to determine if assistance is necessary. Should SRT assist in execution, a Commander or above shall oversee the execution of the search warrant. Should SRT determine that no assistance is needed, a Captain or above shall oversee the execution of the search warrant.

The ranking supervisory member present shall serve as the raid commander or delegate the responsibilities of raid commander to another supervisory member. The raid commander will be responsible to ensure the Risk Assessment Matrix is complete and accurate; proper clearance has been obtained from Communications; and that the execution of the search warrant has been deconflicted with the local HIDTA (High Intensity Drug Trafficking Area) office.

The raid commander shall ensure that an appropriate amount of personnel, properly equipped and trained, are present and shall brief all personnel participating in a search warrant on necessary information, including but not limited to personnel assignment; route to target location; route to the nearest level 1 trauma center; primary and secondary points of location entry; and tactical considerations or hazards (e.g., fences, dogs, broken or missing porch steps, etc.).

For further requirements and procedures concerning the execution of search warrants and raids, members shall refer to Department Manual Directive 203.7, Vice and Narcotics, and shall act in accordance with policy.

Execution of the Search Warrant

1. Should there be any children present or signs of children at the scene, there shall be no execution of any search warrant unless approved by the Chief of Police or his designee. Surveillance shall confirm the children have left the premises before any execution of the search warrant.
2. Search warrants may be executed at any time of the day or night. However, officers shall attempt to execute search warrants in the daytime, unless otherwise indicated by the raid commander.
3. *All officers assigned to the entry team and perimeter security shall be readily identifiable as police. Members shall wear department approved uniforms with "POLICE" in bold letter on their body armor or outermost garment.*
4. *No knock warrants are strictly prohibited, and may only be executed in the instance of an imminent threat of loss of life or serious injury or a national security risk. Any no knock warrants must be approved by the Chief of Police or his designee.*
5. For all other warrants, members shall announce their authority and purpose. If refused admittance, or if no response is heard from within the premises, officers may break any outer or inner door or window of a house or building, or anything therein, in order to execute the warrant. In addition, officers may forcibly liberate themselves or any person assisting them in execution of the warrant.

6. If doing so will not unduly place officers or other person's lives in danger, upon entry to the premises, an officer shall deliver a copy of the search warrant to the occupant. *The raid commander may elect to secure the location and all occupants prior to providing the occupants a copy of the search warrant.* If no occupant is present, a copy of the search warrant shall be left in a conspicuous place within the premises.
7. *Body-worn cameras shall be worn by members at all times, in accordance with policy, when executing a search warrant or seizing property for evidence.*
8. Officers executing search warrants must tabulate any seized property on the Return to Search Warrant, which is included in the search warrant packet. If an occupant is on the property, the tabulation shall take place in the occupant's presence. The Return to Search Warrant must be signed by one of the officers conducting the search and the occupant who witnessed the tabulation. The occupant/witness shall receive a copy of the Return to Search Warrant.
9. If the premises are unoccupied at the time of the search, the Return to Search Warrant must be prepared in the presence of at least one other person. A copy of the Return to Search Warrant shall be left on the premises in a conspicuous place.
10. Anytime something on the premises being searched appears to be evidence of another crime, but is not listed on the search warrant, the premises should be secured by stationing several officers on the premises and an additional search warrant should be sought. Nothing would prohibit an officer from seizing obvious contraband that is in plain view.
11. *Any search warrants executed by members of the Detroit Police Department, regardless of whether or not any evidence was seized, shall be documented on an incident report and Daily Activity Logs of all members present. Any member present at the location within the City of Detroit where an outside agency (Federal, State, County, or municipal agency) executes a search warrant shall obtain contact information for the agency, officer in charge, and document the date, time, and location of the execution of that agency's search warrant an incident report.*

36th District Court Criminal Division Search Warrants – After Execution

Whether executed or not, the search warrant packet shall be taken to the Felony Warrant Office, located on the 1st Floor of 36th District Court, within 24 hours after issuance, excluding Sundays and holidays. If the search warrant was obtained when court was not in session, it must be validated and assigned a control number at the Felony Warrant Office.

36th District Court Traffic and Ordinance Division Search Warrants – After Execution

Traffic and Ordinance Division search warrants are returned to the presiding competent authority (e.g. judge or magistrate). At the time of issuance the presiding competent authority (e.g. judge or magistrate) will tell the requesting officer when to return the search warrant packet.

Updates to the Department Manual are forthcoming.

JAMES E. WHITE
Chief of Police