



<b>Series</b> 200 Operations	<b>Effective Date</b> TDB	<b>Review Date</b> <i>Three Years</i>	<b>Directive Number</b>  <b>202.3</b>
<b>Chapter</b> 202 - Limits on Authority			
<b>Reviewing Office</b> Detective Bureau			<input type="checkbox"/> <b>New Directive</b> <input checked="" type="checkbox"/> <b>Revised</b> <small>Revisions in <i>italics</i></small>
<b>References</b> <i>MLEAC 3.1.2 Search Warrants</i>			

**SEARCH WARRANTS AND EXECUTION**

**202.3 – 1 PURPOSE**

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

**202.3 – 2 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. *All search warrants shall clearly reflect the date and time of judicial approval.*

**202.3 – 3 Definitions**

**202.3 – 3.1 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.

**202.3 – 3.2 Search Warrant** [*MLEAC 3.1.2*]

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

**202.3 – 3.3 No Knock Search Warrant**

*A search warrant authorizing a member to enter a private residence or other location without first knocking and announcing their presence and purpose based on a judicial determination that compliance with the knock-and-announce requirement would pose an immediate threat to the officer or the public, lead to the destruction of evidence, or allow a suspect to escape.*

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**202.3 – 3.4 Probable Cause**

*A reasonable belief that an individual has committed, is committing, or is about to commit an offense.*

**202.3 – 4 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.

**202.3 – 4.1 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.

**202.3 – 5 Obtaining a Search Warrant - General** [MLEAC 3.1.2]

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 for recommendation to an Assistant Prosecuting Attorney (APA)*. Once approved by an APA, it shall be presented to the court having jurisdiction of the case.

*Members seeking issuance of a search warrant shall be guided by their Standard Operating Procedures (SOP) and supervisor, as it regards to which (APA) will review the search warrant (e.g. community prosecutor, electronic via email or specialized entity) Electronic emails to the Wayne County Prosecutors Office (WCPO) shall use [search.warrants@36thdistrictcourt.org](mailto:search.warrants@36thdistrictcourt.org).*

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*The search warrant packet shall then be taken for validation and control number assignment to the Felony Warrant Office, located on the 1<sup>st</sup> Floor of 36<sup>th</sup> District Court. This control number shall be noted for future reference.*

*For any narcotics-related search warrants, a Deputy Chief shall review and approve before being presented to the 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.*

*If the member is appearing before the magistrate or other judicial authority in person, then the member's affidavit must be signed in front of the magistrate or other judicial authority. If the member is seeking remote approval (for example, via email) the affidavit may be signed outside of the presence of the magistrate or other judicial authority unless the court directs otherwise.*

#### **202.3 – 5.1 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.*

#### **202.3 – 5.2 3<sup>rd</sup> Circuit Court, Criminal Division**

*A search warrant requiring judicial review at the circuit court level shall be prepared, presented for supervisor review, and APA in the manner mentioned above. During normal business hours, the search warrant affiant shall identify which 3<sup>rd</sup> Circuit Judge is assigned to search warrant review and present the search warrant.*

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**202.3 – 5.3 Obtaining a Search Warrant when Court is not in Session**

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 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 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. With the court's permission in accordance with this directive, members may electronically deliver the search warrant packet for signature.

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.

**202.3 – 6 Executing a Search Warrant** [MLEAC 3.1.2]

**202.3 –6.1 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. Search warrants that do not require entry into buildings, residences, or other locations (e.g., cellphone data requests, digital records, or searches of luggage) do not require a RAM report.

**202.3 – 6.2 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.

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- 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 de-conflicted 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.*

**202.3 – 6.3 Execution of the Search Warrant**

1. *Members executing search warrants shall have their Body Worn Camera (BWC's) activated.*
2. *Members shall capture all areas of the search and recovery of evidence. Any attempt to divert BWC's away from property can result in disciplinary action.*
3. *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.*
4. *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.*
5. *Unless doing so would interfere with the purpose of the search warrant, inhibit timely recovery of evidence, or place members in danger, members shall give the owner or an adult resident of the location a reasonable opportunity to examine the search warrant prior to entry.*
6. *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.*

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7. *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.*
8. *No knock warrants are strictly prohibited and may only be executed when authorized by a court based on 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 designee.*
9. *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.*
10. *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. If occupant refuses to sign, the refusal shall be captured on BWC.*
11. *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.*
12. *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.*
13. *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.*
14. *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, agency, and location of the execution of that agency's search warrant in an incident report.*

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### 202.3 – 6.4 Execution of the Search Warrant on an Incorrect Address

In the event the Department serves a search warrant on an incorrect address, the Raid Commander or ranking supervisor on scene shall immediately notify Notification and Control and request to speak with the commanding officer of Resource Management to facilitate coordination with the General Services division of the City of Detroit to expedite an emergency repair at the point of entry. If necessary, the raid commander shall coordinate with the precinct of occurrence to ensure that reasonable steps are taken to provide security to the location until emergency repairs are completed. Under no circumstances shall the security detail be established at the location if objected to by the homeowner or any occupants. The ranking supervisor shall also notify the homeowner, or an adult occupant, on how to contact the City of Detroit Law Department claims division to properly process the claim of property damage. The commanding officer of the entity responsible for the search warrant service shall initiate an Investigation and Report in an attempt to identify any misconduct, training issues, or other concerns that lead to the improper address or location being damaged.

### 202.4 – 6.5 Return of Search Warrants

Members shall adhere to the issuing of the court's protocols regarding the return of search warrants.

#### Related Policies:

- Directive 202.2 – Search and Seizure
- Michigan Law Enforcement Accreditation Commission

#### Related Forms:

- DPD746 Risk Assessment Matrix
- Wayne County Prosecutor's Search Warrant Packet
- Directive 304.6 Body Worn Cameras