

	DELMAR POLICE DEPARTMENT	
	Policy 7.5 Search Warrants	
	Effective Date: 05/01/15	Replaces: 2-2
	Approved: <u>Ivan Barkley</u> Chief of Police	
	Reference: N/A	

I. POLICY

The Federal and State Constitutions guarantee every person the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. Supreme Court decisions regarding search and seizure place the responsibility on the police to ensure that person's Fourth Amendment rights are protected. Officers shall carefully observe constitutional guidelines when conducting searches and always remain mindful of their lawful purpose. Search warrants, in particular, are one of the most valuable and powerful tools available to law-enforcement officers. Because of the potential harm to members of the community, the risks to officers' safety and to the Department image in the community, officers shall have a thorough knowledge of the legal requirements in obtaining and executing search warrants.

II. PURPOSE

The purpose of this general order is to establish guidelines and procedures which officers must follow when conducting searches and seizures.

III. DEFINITIONS

- A. Search Warrant: A written order, issued by an officer of the court, and directed to a peace officer, commanding him to search for any property or thing.
- B. Search Site: The premises or person to be searched, as explicitly stated in the search warrant.
- C. Search Team Personnel: Law enforcement officers and supporting personnel taking part in the execution of the search warrant, searching premises and or persons as authorized by the warrant.
- D. Seizing Officer: Member of the search team responsible for the possession, packaging, sealing and marking of all items seized.
- E. Officer in Charge: Search team member who is knowledgeable about the case and/or responsible for the investigation.

IV. PROCEDURES - Executing a search warrant

A. Time Limitations on Search Warrant Execution

1. A search warrant shall be executed as soon as practicable within the conditions stated in state law. Circumstances that may necessitate a delay in executing a search warrant include, but are not limited to:
 - a. The need to have many searches occur at the same time, which requires coordination and mobilization of law enforcement resources.
 - b. The seizeable items have not arrived at the search site.
 - c. The probability that substantial resistance will be encountered.
 - d. A particular person is absent from the search site, and the officer in charge feels that the search would best be conducted if that person were present.
 - e. The need to protect an informant's identity.
2. Absent court approval necessity or authorized by law, a search should be conducted during daylight hours.

B. Preparing to execute the warrant

1. Prior to entering the premises, the officer in charge shall complete a Briefing and Operational Packet (DPD Form 7.5-A) and conduct a pre-entry briefing of the execution process with all search team personnel. The briefing shall include a review of the actual order of operations and procedures the search personnel will follow, a simulation of the conditions of the search site (using maps, charts and diagrams when appropriate) and tactics and equipment to be used in the event of a forced entry.
2. The officer in charge shall attempt to determine if any circumstances have changed that make executing the search warrant at that time undesirable.
3. The officer in charge shall ensure that the entire search warrant execution process is documented, from beginning to end, and continued until the search team leaves the premises. A written record shall be supported by photographs and, if practical, a videotaping of the entire search site from start to finish.
4. All arrest and search warrants will be executed by sworn law enforcement officers only.

5. All members of the search team shall be in uniform or other clothing conspicuously marked with "POLICE" to include the Department-issued badge.
6. All members of the search team shall wear protective body armor during the execution of all warrants.

C. Gaining entrance to premises

1. The approach to the scene shall be executed without sirens. If a pre-execution surveillance team is on the scene, radio contact shall be made to ensure that it is an appropriate time to serve the search warrant.
2. The officer in charge shall be responsible for ensuring that the search warrant is valid and that the property about to be searched is the property listed on the warrant.
3. The search team personnel shall position themselves in the following manner:
 - a. Exits from the premises shall be covered
 - b. Uniformed officers are the most visible members of the search team, and should conduct the entry.
 - c. Non-uniformed officers shall be the last members to enter the search site.
4. Notification
 - a. The officer in charge, or a uniformed officer, shall notify persons inside the search site, in a voice loud enough to be heard inside the premises, that he/she is a police officer and has a warrant to search the premises and that he/she demands entry to the premises at once.
 - b. No-knock entries shall be made in accordance with state law.

D. Conduct of the search

1. The officer in charge shall ensure that a protective sweep of the site is performed immediately by search personnel.
2. Upon securing the location, the occupant shall be given a copy of the search warrant, or if unoccupied a copy will be left in a conspicuous place within the search site.
3. After the search site has been secured, a photographic and/or videotape record of the premises should be made prior to conducting the search.

4. Once all the evidence being searched for is located, the search must cease at that point.
5. Officers shall not use a search warrant to conduct a “fishing expedition”, i.e., if the search warrant is for a television, or large item, small places such as jewelry boxes may not be searched.
6. The seizing officer may seize only the property listed in the warrant with two exceptions:
 - a. The other evidence is reasonably related to the offense for which the search warrant was issued.
 - b. It is property which the officer knows or has probable cause to believe is evidence of another crime.
7. All evidence and seized property shall be handled in accordance with policy 12.2.
8. Search team personnel should exercise reasonable care in executing the warrant to minimize damage to property. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, arrangements shall be made to guard the premises until it can be secured.

If damage occurs, justification for actions that caused the damage and a detailed description of the nature and extent of the damage shall be documented. Photographs of the damage should be taken where possible.

E. Searches of persons found on premises

1. A person's presence on the premises to be searched with a warrant does not, without more, give rise to probable cause to search that person beyond a frisk for Officers' safety.
2. A warrant to search the premises for contraband does carry with it the authority to detain the occupants of the premises while a search is being conducted. If the search of the premises gives rise to probable cause to arrest the detainee, he or she may be arrested and his or her person searched incident to arrest.
3. A person on the premises may be searched if the Officer has probable cause to believe that items listed in the warrant are concealed on the person. Mere presence on premises does not constitute probable cause.

V. PROCEDURES - Return of the search warrant

- A. After the search team personnel have finished their search, the following shall be performed prior to leaving the search site:
 1. The officer in charge shall complete a Delmar Police Department Search Warrant Return (DPD Form 7.5-B1) for those warrants executed in the State of Maryland. In Delaware, search warrant returns will be completed on applicable forms as provided for in compliance with State law.
 2. The seizing officer shall make an inventory of all the property seized on the Evidence Inventory Form (DPD Form 7.5-B2) and leave a copy with the person in charge of the premises. In the event the premises is unoccupied, a copy of evidence inventory form shall be left in a conspicuous place within the premises.

- B. Within 10 days in Maryland and 5 days in Delaware following the execution of the search (excluding Saturdays, Sundays, or legal holidays) the officer in charge shall make return of the warrant to the judicial officer who issued the warrant. The return will include the following:
 1. The Search Warrant;
 2. The Search Warrant Return;
 3. The Evidence Inventory Form