

1.18 EXECUTING SEARCH WARRANTS



EXECUTING SEARCH WARRANTS

POLICY & PROCEDURE NO. 1.18	SECTION OPERATIONS	PAGES: 7	ISSUE DATE: December 18, 2023
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 43.1.4, 74.3.1		EFFECTIVE DATE: January 1, 2024	REVISION DATE:
ISSUING AUTHORITY: 			
Chief Nathan C. Hagglund			

I. GENERAL CONSIDERATIONS AND GUIDELINES

The execution of a search warrant on an occupied dwelling or motor vehicle can be a demanding and potentially dangerous task. Sufficient care should be taken in analyzing the circumstances surrounding the offense, the suspects, and the location where the warrant will be served. A raid plan should then be designed with these circumstances in mind.

Dangers lurk in every size jurisdiction, with guns, explosives and other potentially deadly threats facing unsuspecting or unprepared officers. Assigning an insufficient number of officers, or relying on untrained personnel, may increase the risk of deadly consequences. It is essential to have a process to evaluate and plan the execution of search warrants in order to minimize the potential risks.

II. POLICY

The West Brookfield Police Department provides procedures to evaluate, plan, and execute search warrants in a manner that provides for the safety for all persons involved. These procedures also provide for a thorough and legal search while respecting the constitutional rights of the person(s) the warrant is being served upon and establishing a record of the warrant execution process.

1.18 EXECUTING SEARCH WARRANTS

This policy does not apply to objects already in police custody or unoccupied motor vehicles. [74.3.1(2-B)]

III. DEFINITIONS

Imminent Harm- The risk of serious bodily, being an injury that results in: permanent disfigurement; protracted loss of impairment of a bodily function, limb or organ; or a substantial risk of death to an officer or another identifiable individual.

IV. PROCEDURES

The West Brookfield Police Department provides procedures to evaluate, plan, and execute search warrants in a manner that provides for the safety for all persons involved. These procedures also provide for a thorough and legal search while respecting the constitutional rights of the person(s) the warrant is being served upon and establishing a record of the warrant execution process.

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PROCEDURES: [43.1.4]

The case officer should secure a warrant and ensure that it is thoroughly reviewed for accuracy, legal integrity, and completeness. A supervisor shall oversee the execution of any search warrant. The search warrant must be served within seven (7) days of issue. ¹ For further information, see the department policy on **Search Warrant Affidavits**.

PLANNING

The case officer shall prepare a raid plan for executing a search warrant, in accordance with its nature and complexity. As part of his/her preparation the case officer shall:

1. Gather intelligence on the target site, to include the structure, immediate area surrounding the structure, and surrounding neighborhood;
2. Assess the capabilities and backgrounds of suspects, to include criminal records, the possibility of weapons, and potential for violence;

1.18 EXECUTING SEARCH WARRANTS

3. Determine the best date and time for warrant execution; and
4. Determine equipment, team personnel, and any specialized team requirements.

Note: The use of a tactical team should be considered whenever a warrant calls for no-knock entry, nighttime entry, or the subject is known to be armed or particularly dangerous.

The case officer shall submit a raid plan to his or her supervisor and receive approval of said plan prior to executing the warrant.

PERSONNEL

Selection of officers to serve the warrant should be based on the officers' prior training and experience and the demands of the warrant service in question. There shall be adequate personnel to serve the warrant safely and efficiently.

In many cases personnel from different agencies may be involved in the service of a search warrant. It is important for all personnel to familiarize themselves with one another and the operational plan prior to its execution.

NO KNOCK WARRANTS [74.3.1]

Subsection A- A warrant that does not require a law enforcement officer to knock and announce their presence and purpose before forcibly entering a residence shall not be issued except by a judge and only if the affidavit supporting the request for the warrant: **[74.3.1(3-A)]**

1. Establishes probable cause that if the law enforcement officer announces their presence their life or the lives of others will be endangered; and
2. Includes an attestation that the law enforcement officer filing the affidavit has no reason to believe that minor children or adults over the age of 65 are in the home, unless there is a credible risk of imminent harm to the minor or adult over the age of 65 in the home.

Subsection B- A police officer executing a search warrant shall knock and announce their presence and purpose before forcibly entering a

1.18 EXECUTING SEARCH WARRANTS

residence unless authorized by a warrant to enter pursuant to subsection (a).

Subsection C- An officer shall not dispense with the requirements of subsections (a) and (b) except to prevent a credible risk of **imminent harm** as defined in section 1 of chapter 6E. **[74.3.1(3-B)]**

Subsection D- Evidence seized or obtained during the execution of a warrant shall be inadmissible if a law enforcement officer violates this section.² **[74.3.1(3-C)]**

The need for a no-knock warrant or a no-knock entry should be considered prior to applying for the warrant and again prior to execution. The need for a no-knock warrant shall be clearly specified in the affidavit for a warrant if probable cause exists at the time of application.

NIGHTTIME ENTRIES

Should nighttime service, between the hours of 10:00 p.m. and 6:00 a.m., be deemed necessary, justification shall be included in the affidavit and must be authorized in the search warrant.

BRIEFING

A copy of the raid plan and search warrant shall be given to all involved officers during a pre-raid briefing. The case officer and/or the supervisor in charge shall conduct the briefing. All officers participating in the warrant service should be present and identified as members of the raid team.

The raid plan should include information concerning the structure to be searched and surroundings, to include floor plans where available, mockups, photos, and diagrams of the location identifying entrances, exits, obstructions, fortifications, garages, outlying buildings, suspect vehicles, and all other points of concern.

Suspects and other occupants who may be present at the location should be identified, incorporating photos whenever possible. The suspect's threat potential, as well as the presence of children, the elderly or others who may not be involved should be included.

A complete review of the tactical plan, to include the staging area and route of approach, will be reviewed. A plan for exiting the location under emergency conditions should also be reviewed.

Individual assignments shall be made for entry, search, management of evidence, custody and handling of seized vehicles, custody of prisoners,

1.18 EXECUTING SEARCH WARRANTS

and post-execution duties, such as securing the location and conducting surveillance on the site for additional suspects.

Contingency plans should be made for encountering hazardous materials, animals, booby traps, fortifications or related hazards, and shall include measures to take in case of injury or accident, to include the nearest location of trauma or emergency care facilities.

ENTRY PREPARATION

Prior to the execution of the warrant, the case officer and/or supervisor shall make a final assessment of the warrant's accuracy in relationship to the location to be searched and attempt to determine if any circumstances have changed that make executing the search warrant undesirable at that time.

All non-uniformed officers shall be clearly identified as law enforcement officers by a distinctive jacket or some other conspicuous indicator of office and shall wear body armor. Uniformed Officers shall be used to secure the perimeter whenever practical.

The specific items subject to the search will be defined in the warrant, with any available information on their location.

ENTRY PROCEDURES

If an advance surveillance team is at the target site, contact shall be made to ensure that the warrant can be served according to plan. The raid team shall then position themselves in accordance with the execution plan.

Officers must reassess the need for announcing entry immediately prior to executing the warrant. If probable cause for a no-knock entry should develop after the warrant is issued and before it is executed, officers may enter without first knocking and allowing the occupants sufficient time to answer. If a no-knock warrant was issued and probable cause no longer exists, the officers must announce their presence prior to entry.

A police officer shall knock and notify persons inside the search site, in a voice loud enough to be heard inside the premises, that they are a police officer, has a warrant to search the premises, and demands entry at once.

After knocking and announcing their presence, officers shall delay entry for an appropriate period of time to provide a reasonable opportunity for

1.18 EXECUTING SEARCH WARRANTS

an occupant to respond. If there is probable cause to believe that the delay would create unreasonable risks to the officers or others or would permit the destruction of evidence, entry may be made as soon as practicable.

Officers may also, at any time, employ a ruse to trick the occupants into opening the door. When a ruse is used officers shall still identify themselves as police officers to the occupants immediately before making entry.

Upon entry a protective sweep of the site shall be performed immediately. The occupant shall be provided with a copy of the search warrant. If the property is not occupied at the time of the search, a copy of the warrant should be left in a conspicuous location at the site.

SEARCH PROCESS

Items specified in the warrant may be searched for in places where they may reasonably be expected to be located. Items listed in the warrant or items that are reasonably recognized as evidence may be seized.

EVIDENCE DOCUMENTATION

The case officer shall ensure that the search process is documented. A written record may be supported by photographs or, if practical, videotaping. Evidence should be photographed in place prior to recovery, if possible.

A designated officer shall be responsible for collecting, preserving, and documenting all items seized until possession is transferred to the evidence custodian, laboratory, or other authority.

Cash taken as evidence shall be counted, documented, and placed in a sealed envelope or container by at least two officers.

SEARCH CONCLUSION

If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to unauthorized entry, arrangements should be made to protect the premises until it can be secured or occupied by an interested party.

1.18 EXECUTING SEARCH WARRANTS

Upon the conclusion of the warrant service, the case officer and/or supervisor may conduct a debriefing of all participating officers.

REPORTING

The case officer shall submit a report on the warrant service, results of the search, and recommendations for further investigative actions.

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.

An officer present during the recovery of evidence shall return the warrant, with an inventory of the items seized, within seven (7) days of the warrants issuance.

¹ M.G.L. c. 276, §2A; M.G.L. c. 276, §3A.

² Section 94 of MGL Chapter 6E of Section 30 of the “JEALE” ACT of 2020