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| <b>Search Warrants and Investigative Subpoenas</b> |                            |                  |



Cross Reference: 3.01, 4.13, 6.02, 6.03

Training Supplement: 6-1, 6-3

## I. Introduction

Search warrants and investigative subpoenas are legal instruments that are important investigative tools in law enforcement. This directive outlines the policies and procedures for obtaining and executing those legal instruments. Some organizational components may have additional policies and procedures outlined in their respective standard operating procedures manuals.

## II. Definitions

### A. Affiant

The law enforcement officer who signs the affidavit and swears to its truth before a judicial official. This is typically the lead investigator.

### B. Affidavit

A sworn written statement containing the facts establishing probable cause for the issuance of a warrant.

### C. Investigative Subpoena

A legal document that compels an organization or individual to provide testimony.

### D. No-Knock Warrant

A warrant issued by the court that does not require those executing the warrant to announce their presence and purposes prior to executing the warrant.

### E. Search Warrant

A court order directing officers to search a certain person, place, or thing for specific property.

## III. Policy Statements

### A. A search warrant may be issued to search for and seize any of the following:

1. Evidence of the commission of a crime
2. Contraband, fruits of a crime, or items otherwise criminally possessed
3. Weapons or other objects that were used to commit a crime or that it is reasonably believed are about to be used to commit a crime
4. A wanted person

B. No affidavit shall be signed except upon probable cause.

C. Search Warrant Preparation

1. Division personnel shall address search warrants to the Chief of Police, county sheriff, or other agency head having jurisdiction over the location that is subject to the warrant.
2. The affiant shall include the following in all search warrant requests:
  - a. A description of the location, vehicle, item, person, or account that is sought out of the warrant and sufficiently detailed to distinguish it from similar items.
    - (1) Buildings should include the legal address, whenever possible, and include a physical description sufficient to definitively identify the location.
    - (2) Other items shall be described using unique identifying details; for example, the VIN for a motor vehicle or the serial number for electronic devices.
  - b. The basic facts of the crime and the nexus to the evidence sought out of the warrant.
  - c. Whether daytime or nighttime warrant service is being requested. Warrant service between the hours of 8:00 p.m. and 7:00 a.m. is considered nighttime service and will require justification.
3. A Division supervisor shall review all search warrants before they are submitted to a judge.

D. Search Warrant Execution

1. SWAT Unit personnel shall serve the following search warrants:
  - a. High-risk warrants, as defined in the "Special Weapon and Tactics (SWAT)" directive.
  - b. No-knock warrants.
  - c. Any search warrant requiring forced entry when it is believed that the structure will be occupied.

Note: In-Tac Unit personnel may serve warrants that meet these criteria when executing a narcotics search warrant.

2. SWAT or Covert Support Unit personnel may also assist with placing electronic tracking devices after a warrant has been obtained.
3. Unless serving a no-knock warrant, sworn personnel executing a search warrant on an occupied structure shall:
  - a. Physically knock on an entry door;
  - b. Clearly announce you are law enforcement officers executing a search warrant in a manner that can be heard by the occupants; and
  - c. Unless exigent circumstances exist, wait at least 15 seconds prior to entering the structure.

4. Columbus City Code requires the use of body-worn cameras during the execution of certain search warrants and arrest warrants. Sworn personnel shall follow the requirements in the “Body-Worn Camera (BWC) and Cruiser Video System (CVS)” directive.
5. Search warrants shall be executed within 72 hours of the time of issuance, excluding weekends and legal holidays. Warrants not served within 72 hours must be resubmitted and may require updated probable cause.
6. Electronic tracking devices shall be installed within ten days of issuance of the warrant. Electronic tracking must be terminated 45 days from the date the warrant is issued unless an extension is granted by the court.
7. Division personnel should consult the Division’s Legal Advisor prior to serving a warrant when:
  - a. The search warrant pertains to an individual with privileged communications (for example, an attorney or physician) and the evidence that is sought out of the warrant is related to the individual’s professional capacity.
  - b. The evidence sought out of the search warrant is necessary for the ongoing operations of a legitimate business and the seizure is likely to have a significant impact on business operations.

Note: Division personnel should make a good faith effort to minimize the impact on business operations.

8. Sworn personnel shall notify the appropriate investigative unit and request its response when evidence of an unrelated crime is discovered.

#### E. No-Knock Warrants

1. No-knock warrants shall be approved by the Chief of Police.
2. Division personnel shall not seek, execute, or participate in the execution of a no-knock warrant when:
  - a. The location is within the City of Columbus and the suspected offense is a fourth degree felony or lesser offense or any offense of marijuana possession; or
  - b. There is intelligence indicating the presence of minors on the premises, except when the warrant is issued in connection with an arrest warrant for a suspect 15 years of age or older for a violent felony.
3. Unless exigent circumstances exist, Division personnel shall conduct surveillance of the location for at least two hours prior to the execution of a no-knock warrant.

#### F. Division personnel may utilize an investigative subpoena to compel an individual to appear in court to provide information material to a felony investigation.

1. The subpoena shall not state that the subpoenaed individual can satisfy the subpoena by providing records without a court appearance.

Note: The subpoena may advise that the individual may bring documents or records that supports the testimony being sought.

2. Upon obtaining an investigative subpoena, sworn personnel shall notify the City Attorney's Criminal Division Chief of the date and time of the appearance.
3. The requesting officer or another officer familiar with the facts of the case shall be present for the appearance.

## **IV. Procedures**

### **A. Affiant**

#### **1. Search Warrant Preparation**

##### **a. Complete the appropriate warrant form.**

- (1) For warrants filed in Franklin County Municipal Court and any other court that utilizes the Ohio Community Supervision System (OCSS) or another electronic submission system, complete the appropriate form in the electronic system.
- (2) For warrants filed in Franklin County Common Pleas Court and other courts that do not utilize OCSS or another electronic system, download the appropriate form from the Division's electronic document management system.

**Note:** Utilize the search warrant form with the fewest number of affidavit pages necessary to articulate probable cause.

##### **b. Complete the "Entry for Search Warrant to be Sealed" and "Order Prohibiting Disclosure" when applicable. Include justification for the request to seal the warrant in the affidavit.**

##### **c. Submission**

- (1) Ensure the affidavit is reviewed by a Division supervisor.
- (2) Electronically sign all pages and submit the warrant via the OCSS or other electronic system, when applicable.
- (3) If the electronic system is unavailable, does not have the appropriate template, or the court does not utilize an electronic system, hand deliver the warrant to the judge in accordance with court procedures. Contact the jurisdiction's Clerk of Courts if unsure of the appropriate procedures.

#### **2. Search Warrant Execution**

- a. Coordinate warrant service with other units (for example, SWAT) as necessary.
- b. Complete an electronic Property Sheet Record in the electronic reporting system and other Division reports as needed.

##### **c. Provide the occupant in control of the premises or property a copy of the search warrant and the "Return; Receipt; Inventory of Search Warrant." If no one is present, leave copies inside the location.**

- (1) Provide the "Order Prohibiting Disclosure" when applicable.
- (2) When data or other non-tangible evidence is collected pursuant to a search warrant send a copy of the warrant via U.S. mail.

(3) For electronic tracking device warrants, provide the copies directly to the owner of the property that was tracked within 10 days after the use of the tracking device has ended. If the owner is not available, leave a copy with an adult and mail a copy to the owner's last known address.

d. Return the original search warrant, one additional copy, and the "Return; Receipt; Inventory of Search Warrant" to the Clerk of Courts. If applicable, first present the "Entry for Search Warrant to be Sealed" when filing the search warrant return, and request verbal confirmation from the clerk that the warrant is to be sealed.

3. Investigative Subpoenas

a. Complete the investigative subpoena form located under "Division Forms" in the electronic document management system or in the OCSS system when applicable.

b. Upon supervisor approval, submit the form to the court.

c. After the subpoena is approved by the judge, have it time-stamped by the Clerk of Courts.

Note: Division personnel can serve the warrant directly or request service by the clerk's office. If an "Order Prohibiting Disclosure" was approved, include it with the investigative subpoena.

d. Notify the City Attorney's Criminal Division Chief of the date and time of all hearings related to investigative subpoenas and whenever the subpoena is withdrawn prior to the hearing.

B. Supervisor

1. Review all search warrant forms to ensure:

a. Probable cause exists for the search warrant.

b. The facts of the crime and nexus to the evidence being sought are sufficiently detailed.

c. The location, item(s), or information sought out of the warrant is sufficiently described.

d. Sufficient justification is provided when nighttime service is requested.

2. Review all investigative subpoena requests prior to court submission.

3. Search Warrant Execution

a. Notify the local jurisdiction when a search warrant is executed outside the City's jurisdiction.

b. Coordinate the search during large or complex operations.

c. Complete the Forced Entry, form U-10.111, and any other applicable administrative reports as necessary.

d. Ensure reasonable efforts are made to secure the location as applicable.