

CUMBERLAND COUNTY DISTRICT ATTORNEY'S OFFICE POLICY FOR LAW ENFORCEMENT – UNANNOUNCED SEARCH WARRANTS

I. PURPOSE

This directive establishes policy and procedures for obtaining and executing search warrants. It is intended to facilitate a coordinated and efficient system for obtaining and executing search warrants and to ensure that all searches are conducted within legal parameters. This policy is not intended to describe or establish legal requirements concerning search warrants. Those matters should be discussed with and managed by the District Attorney.

II. POLICY

It is the policy of the Cumberland County District Attorney's Office to provide techniques to accomplish a thorough and legal search; respect the constitutional rights of the person(s) upon whom the warrant is being served; minimize the level of intrusion experienced by those who are having their premises searched; provide for the safety for all persons concerned and establish a record of the warrant execution process. This law enforcement agency prohibits the execution of an unannounced search warrant unless there is a valid exemption. The officer must abide by this policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees.

III. DEFINITIONS

Primary Investigator: The Investigator is primarily responsible for the investigation, and preparing, planning, and implementing the search warrant.

Search Site: The premises to be searched, as explicitly stated in the search warrant.

Search Personnel: Law enforcement Officers, Officers and supporting personnel taking part in the execution of a search warrant.

Evidence Collector: Member of the search team responsible for the possession, packaging, sealing, and marking of all items seized.

Tactical Coordinator: The Investigator responsible for planning and supervising tactical operations to include dynamic entry and other tasks requiring special weapons and tactically trained Officers.

Unannounced ("no-knock") Search Warrant: A warrant that authorizes the execution of the warrant without the Investigator first announcing the authority for the execution of the warrant and the purpose for which the warrant was issued. Any warrant is an unannounced warrant if it is executed without waiting for at least 20 seconds after the announcement of authority and purpose before making entry.

Protective Sweep: Quick and limited search of premises incident to an arrest or execution of a warrant to identify weapons or other dangers to Officers or others. Officers must articulate a reasonable basis for conducting a protective sweep.

IV. PROCEDURES

A. Probable cause

1. Any Investigator wishing to obtain a search warrant shall discuss, verbally or by a written report, with the Investigator's immediate supervisor the facts and information that the Investigator believes establish probable cause for such a warrant. Before applying for a search warrant, the investigator must have the authorization of an Assistant District Attorney to file a warrant.

B. Obtaining the warrant

1. It shall be the responsibility of the primary Investigator to obtain the search warrant from a magistrate authorized to issue a warrant.

C. Unannounced (No-Knock Warrants)

1. The prohibition against the execution of an unannounced search warrant does not apply if:
 - a. The warrant clearly states that providing notice or purpose prior to the execution of the warrant would create an imminent risk of death or bodily harm to a law enforcement officer or Investigator, an individual in the location named in the warrant, or an individual in the surrounding area(s) of the location named in the warrant.
 - b. A recognized exception to the requirement for a search warrant exists, including, but not limited to, exigent circumstances.
2. The existence of an imminent risk of death or bodily harm under the exception to the prohibition against an unannounced search warrant must be reviewed and verified by the warrant's issuing magistrate.
3. A law enforcement officer or Investigator certified under 25 MRS § 2804-C shall be responsible for the direction, oversight, and control of the execution of an unannounced search warrant.
4. Body Worn Cameras, if provided, are not mandated to record the execution of an unannounced search warrant; however, their use is highly recommended.

D. Execution of Search Warrants

1. The primary Investigator shall advise and receive approval from the Investigator's supervisor before serving the warrant.
2. Selection of Officers to execute the warrant shall be based on the Officers' prior training and experience in conducting warrant executions consistent with the demands of the warrant execution in question.
3. The primary Investigator shall ensure the complete preparation for executing the warrant in accordance with its nature and complexity and in consultation with the District Attorney's Office if necessary. These tasks include but are not limited to the following:
 - a. Gather intelligence on the target site to include the structure, immediate area surrounding the structure, and surrounding neighborhood. ***Verify target site address with location to be searched as listed in the search warrant.***
 - b. Assess the capabilities and backgrounds of suspects to include criminal records, history of weapons usage, and potential for violence.
 - c. Determine the best time for warrant execution. The warrant shall be executed as soon as practicable.
 - d. Ensure the search warrant is thoroughly reviewed for accuracy, legal integrity, and completeness. This should be done by the District Attorney's Office.
4. The case agent and tactical coordinator, where required, must work cooperatively to ensure proper preparation, planning, and execution of the warrant. They shall detail procedures for executing the warrant to all team members in a warrant execution briefing. The briefing shall be conducted by both the case agent and tactical coordinator and will include but not necessarily be limited to the following:
 - a. The specific items are subject to the search as defined in the warrant and any available information on their location.
 - b. 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.

- c. Suspects and other occupants who may be present at the location, incorporating photos whenever possible with an emphasis on suspect threat potential, as well as the presence of children, the elderly, or others who may not be involved with suspects.
 - d. A complete review of the tactical plan to include the staging area, route of approach; individual assignments for entry, search, management of evidence, custody, and handling of seized vehicles, custody of prisoners, and post-execution duties such as securing the location and conducting surveillance on the site for additional suspects.
 - e. Personnel, resources, or armament necessary for gaining entry, safety and security of Officers and other personnel, and for conducting the search.
 - f. If a joint agency task force operation, all Officers participating in the warrant execution shall be present and identified as members of the warrant execution team.
 - g. Contingency plans for encountering hazardous materials, canines, booby traps, fortifications, or related hazards; measures to take in case of injury or accident, to include the nearest location of trauma or emergency care facilities.
 - h. Procedures for exiting the location under emergency conditions.
5. The entry team shall include uniformed officers who shall be conspicuously present when the warrant is executed. All non-uniformed officers shall be clearly identified as law enforcement by a distinctive jacket or some other conspicuous indicator of office.
- a. Body Worn Cameras – should they be procured in the future – shall be worn in accordance with this agency's body-worn camera policy.

E. Entry Procedures

1. If an advance surveillance team is at the search site, radio contact shall be made to ensure that the warrant can be executed according to plan.
2. The search personnel shall position themselves in accordance with the execution plan.
3. When an imminent risk of death or bodily harm exists, only officers trained in the use of stun grenades, stun, distraction or other similar devices may use such a device during the execution of a search warrant.
4. Notification
 - a. A clearly identifiable police officer or Investigator shall knock and notify persons inside the search site, in a voice loud enough to be heard inside the premises, that they are the police or Sheriff's Office and has a warrant to search the premises and that they demand entry to the premises at once.
 - b. Following the knock and announcement, officers shall delay entry for a minimum of 20 seconds to provide a reasonable opportunity for an occupant to respond. If there is no response by an occupant after 20 seconds, the entry team shall make entry.
 - c. The supervisory Investigator shall ensure that a protective sweep of the site is performed immediately.
 - d. Upon entry, the occupant shall be given a copy of the search warrant.

F. Search Procedures

1. After the site has been secured, a photographic and/or videotape record of the premises shall be made prior to conducting the search. Search personnel shall then follow the plan that details the whereabouts of the items to be seized and the order of operation for conducting the search.

2. Places that may reasonably be expected to contain the items specified in the warrant may be searched, and other items in plain view that are immediately recognized as evidence may be seized.
3. An Evidence Collector designated in the plan shall be responsible for coordinating the collection, preservation, and documenting all items seized until possession is transferred to the evidence custodian, laboratory, or other authority.
4. Officers must exercise reasonable care in executing the warrant to minimize damage to property.
5. 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 the premises can be properly secured.
6. 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.
7. If items are taken from the search site, an itemized inventory shall be provided to the resident/occupant, or in the absence of the same, left in a conspicuous location at the site.
8. In a timely manner upon conclusion of the warrant execution, the case agent and tactical coordinator shall conduct a debriefing of all participating Officers.
9. The case agent shall thereafter prepare and submit an after-action report on the warrant execution, results of actions taken, and recommendations for further investigative actions.

G. Return of Warrant

1. After execution of the search warrant, the original warrant and affidavit shall be delivered to the Clerk of Courts. Those documents, including an inventory list, if any, shall be properly filled out. These documents are returnable to the court immediately following execution whether items were seized in the search. Search warrants must be executed and returned within fourteen (14) calendar days of issuance.