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Sheriff

HARFORD COUNTY SHERIFF'S OFFICE OPERATIONS POLICY

Search & Seizure Warrants

Distribution:	All Personnel	Index:	OPS 1503
Responsible Unit:	Criminal Investigations Division	Rescinds:	OPS 1503 (dated 7/15/17)
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1. Purpose

To provide deputies with guidelines to be used in the application for, and execution of, a search warrant.

2. Policy

Deputies must obtain and execute search and seizure warrants in compliance with the law and this directive.

3. Definitions

AFFIANT: a person who swears to an affidavit; in this directive, includes the term applicant.

AFFIDAVIT: a written statement confirmed by oath and affirmation, that indicates the matters and facts set forth, and attests that the paper is true to the best of the affiant's knowledge, information, and belief.

APPLICATION: a written document signed, dated, and sworn to by the applicant; and accompanied by an affidavit that sets forth the basis for probable cause and contains facts within the personal knowledge of the affiant that there is probable cause.

NO-KNOCK: an application for a search warrant may contain a request that the search warrant authorizes the executing law enforcement officer to enter a building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose, on the grounds that there is reasonable suspicion to believe that the life or safety of the executing officer or another person may be endangered. A warrant may be executed as a no-knock even if not authorized by a judge, given exigent circumstances.

PROBABLE CAUSE: probable cause exists when the facts and circumstances within the knowledge of the deputy, based on education, experience, training and information known to a deputy at the time of an incident, or has reasonable trustworthy information, would warrant a reasonable and prudent person to believe that a suspect has committed or is committing an offense, or that evidence relating to a crime can be found in a particular location.

SEALING ORDER: a court order that restricts access to, or disclosure of, a document.

SEARCH AND SEIZURE WARRANT: an order, issued to the court, authorizing, and directing a deputy to seize and search a specified person, premises, vehicle, dwelling, electronic device, etc. for items related to the commission of a crime.

SEARCH WARRANT INVENTORY REPORT AND RETURN: a document that must be completed and returned to the judge documenting the evidence seized from a valid search and seizure warrant.

4. References

MD. CODE ANN., CRIM. PROC. §1-203
MD. CODE ANN., PUBLIC SAFETY 3-525
MD. RULE 1-304
MD. RULE 4-601
Valdez v. State, 300 Md. 160 (1984).

5. Procedures

A. Search Warrants in General

1. Generally, when there is sufficient time and there is no opportunity to tamper with, remove, destroy, or conceal property or evidence, a search warrant should be obtained.
2. Search warrants may be issued by judges of a federal court, a circuit court, or the District Court of Maryland.
3. To obtain a search warrant, a deputy must present to a federal court judge, circuit court judge, or a District Court of Maryland judge:
 - a. Application for a search and seizure warrant;
 - b. Affidavit in support of a search and seizure warrant; and
 - c. The search warrant to be signed by the judge.
4. Once issued, a search warrant will:
 - a. Be directed to a law enforcement officer for service;
 - b. Authorize the search of the individual, item, vehicle, building, electronic device, or article specifically described in the warrant;
 - c. Authorize the seizure of the item described in the warrant as well as any other property found liable to seizure under Maryland law;
 - d. Be valid for a period of 10 days from the date issued; and
 - e. Be returned with a search warrant inventory report and return within 10 days of service to the issuing judge.

B. Search Warrant Applications

1. When applying for a search warrant, the affiant must present detailed information in an affidavit to establish probable cause:

- a. A misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within the territorial jurisdiction of the judge; or
 - b. The property subject to seizure under the criminal laws of the State is on the person or in or on the building, apartment, premises, place, or thing.
2. An application for a search warrant will be:
- a. In writing;
 - b. Signed, dated, and sworn to by the applicant; and
 - c. Accompanied by an affidavit that sets forth the basis of probable cause and contains facts within the personal knowledge of the affiant that there is probable cause.
3. The affidavit must provide facts to establish that:
- a. A specific offense has been committed;
 - b. A certain specifically identified item directly related to an offense is being sought; and
 - c. The item sought is in the possession of an individual and the individual or the item sought are in a specific container or at a specific location.
4. The application must contain a complete description of the premises, person(s), vehicle(s) and things to be searched.
5. Affidavits may be based on the deputy's knowledge, the knowledge of another person, or the knowledge of a confidential informant.
6. An affidavit is not limited to a writing prepared by the affiant, but the requirement may be fulfilled by the affiant swearing to the truthfulness and accuracy of a written statement, regardless of who prepared the document.

C. Affidavit Based on a Deputy's Own Knowledge

1. When the facts that are the basis for the probable cause are based on the deputy's personal knowledge, the affidavit must include:
 - a. The dates and times the deputy observed the facts;
 - b. The place where the deputy observed the facts;
 - c. Exactly what the deputy observed, in specific detail; and
 - d. A brief synopsis of the deputy's experience and training.

D. Affidavit Based on the Knowledge of Another Person

1. When the facts that are the basis for the probable cause are based on the knowledge of another person, the affidavit must include:
 - a. The name and address of the person who told the deputy the facts (unless the person is a confidential informant or confidential source);
 - b. The date the deputy was told the facts;
 - c. The date the other person observed the facts;
 - d. That the other person personally observed the facts;
 - e. The place where the other person observed the facts;
 - f. Exactly what the person observed, in specific detail;
 - g. An explanation of the circumstances that establish the trustworthiness of the information provided; and
 - h. A brief synopsis of the deputy's experience and training.

E. Affidavit Based on the Knowledge of a Confidential Informant (CI) or Confidential Source (CS)

1. When the facts that are the basis for the probable cause are based on the knowledge of a confidential informant or confidential source, the affidavit must include:
 - a. The information outlined above in (D), (1), (b through h) – but do not include the name or address of the informant/source;
 - b. The informant's/source's past record for accuracy and investigative reliability;
 - c. Whether valid arrests and convictions have been based on that information;
 - d. What facts the deputy has personally observed which corroborate the information related by the informant/source; and
 - e. If appropriate, a statement by the informant/source indicating commission of, or participation in, the crimes indicated.
2. Deputies are not required to disclose the identity of their CI/CS in a search warrant affidavit.
3. When a CI's/CS's identity is not disclosed, it is especially important that the deputy explains fully why the deputy believes that the facts told to the deputy by the informant/source are true.
4. Deputies should provide as much detail as possible without revealing the informant's/source's identity.

5. Where it is important to protect the identity of an informant/source, it is not necessary to specify the exact date upon which the informant/source received their information or performed some act which assisted in establishing probable cause for the issuance of a warrant (phrases such as "during the week of ..." may be used).
6. On finding of good cause, a judge may order an affidavit presented in support of a search and seizure warrant to be sealed for not more than 30 days, if the court finds good cause that the criminal investigation is ongoing and likely to yield further information that could be of use in the criminal prosecution and the failure to maintain the confidentiality of the investigation would:
 - a. Jeopardize the use of information already obtained in the investigation;
 - b. Impair the continuation of the investigation; or
 - c. Jeopardize the safety of a source of information.
7. The court may grant one 30-day extension if it finds good cause to do so based on law enforcement presenting continued evidence that sealing is warranted based on the factors listed above.
8. After the affidavit is unsealed, it must be delivered within 15 days to the person from whom the property was taken or the person apparently in charge of the premises from which the property was taken.

F. Submission of a Search Warrant Application

1. Before a deputy submits an application for a search warrant to a judge, he must submit the completed application and affidavit to his supervisor for review.
2. After supervisory review, a deputy or supervisor must have the search and seizure warrant reviewed by a prosecutor prior to presentation to a judge.
3. The applicant and the judge may converse about the search warrant application:
 - a. In person;
 - b. Via telephone; or
 - c. Via video.
4. An application for a search warrant may be submitted to a judge by:
 - a. In-person delivery of the application, the affidavit, and a proposed search warrant;
 - b. Secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or
 - c. Secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

G. Approval and Submission of a No-Knock Search Warrant Application

1. A deputy may request a search warrant be a no-knock search warrant, on the ground that there is reasonable suspicion to believe that, without the authorization, the life or safety of the executing officer or another person may be endangered. The application will contain:
 - a. A description of the evidence in support of the application;
 - b. An explanation of the investigative activities that have been undertaken and the information that has been gathered to support the request for a no-knock search warrant;
 - c. An explanation of why the affiant is unable to detain the suspect or search the premises using other, less invasive methods;
 - d. Acknowledgement that any police officers who will execute the search warrant have successfully completed the same training in breach and call-out entry procedures as SWAT Team members;
 - e. A statement as to whether the search warrant can effectively be executed during daylight hours and, if not, what facts or circumstances preclude effective execution in daylight hours; and
 - f. A list of any additional occupants of the premises by age and gender, as well as an indication as to whether any individuals with cognitive or physical disabilities or pets reside at the premises, if known.
2. Before a deputy submits an application for a no-knock search warrant to a judge, he must submit the completed application and affidavit to his supervisor for review.
3. After supervisory review (for probable cause and grammar) and approval, a deputy or supervisor must have the search and seizure warrant reviewed and approved by a/the State's Attorney prior to presentation to a judge.
4. The applicant and the judge may converse about the search warrant application:
 - a. In person;
 - b. Via telephone; or
 - c. Via video.
5. An application for a no-knock search warrant may be submitted to a judge by:
 - a. In-person delivery of the application, the affidavit, and a proposed search warrant;
 - b. Secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or
 - c. Secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

H. Judge's Review and Signing

1. The judge will be presented a copy (i.e., In-Person, Secure Fax, or Secure Email) of the search warrant for signature.
2. The judge will review the documents and if the judge finds sufficient probable cause to issue a warrant, will administer an oath that the contents of the application and affidavit are true and correct.
3. The affiant will then sign the application and affidavit(s) followed by the judge signing all the application and affidavit(s).
4. The affiant's supervisor will review the warrant signed by the judge to ensure it has been approved and not denied.
5. The affiant will make three copies of the signed search and seizure warrant.

I. Distribution of Signed Copies

1. The affiant will leave one of the signed application and affidavit and search and seizure warrant at the location of service.
2. One signed copy of the search warrant, along with the search warrant inventory report and return, must be returned to the judge.
3. The remaining original signed copy will be entered in the Records Management System (RMS).

J. Execution of Search Warrants

1. Once issued, the search warrant may be executed by any law enforcement officer unless the warrant specifies it is to be served by the affiant or other individual.
2. A supervisor will verify the search and seizure warrant is valid and contains the correct item(s) to be searched and/or seized, prior to the service.
3. The warrant must be served within 10 days of its issuance.
4. A deputy receiving a search warrant must complete an Operational Plan, when appropriate, for the execution of the warrant. Operational Plans do not have to be completed when executing a search warrant for an object/person already in police custody for example (e.g., a cell phone, etc.).
5. The deputy executing the warrant must use good judgment in developing the Operational Plan that is commensurate with the circumstances. Guidelines may be found in OPS 0730, Operational Plans & After-Action Reports.
6. All court approved no-knock search warrants must be executed by Special Response Team (SRT) personnel.
7. No-knock search warrants will be executed between 0800 and 1900 hours, absent exigent circumstances.

8. While executing a search warrant, a deputy will be clearly recognizable and identifiable as a police officer, wearing a uniform, badge, and tag bearing the name and identification number of the deputy.
9. Unless executing a no-knock search warrant, a deputy shall allow a minimum of 20 seconds for the occupants of a residence to respond and open the door before the deputy attempts to enter the residence, absent exigent circumstances.
10. A deputy may not use a flashbang, stun, distraction, or other similar military-style devices when executing a search warrant, absent exigent circumstances.

K. Risk Assessment and Preparation

1. An Operational Order must be completed per OPS 0730, Operational Orders & After-Action Reports for search warrants on a premise not already secured by law enforcement, or when requested by a supervisor.
2. The supervisor in charge of the search and seizure warrant or their designee, must complete the Risk Assessment for Operations and Warrant Services (SO-147), prior to the execution of the search and seizure warrant on a premise not already secured by law enforcement.
3. A copy of the SO-147 must be retained in the case file of the investigating deputy.
4. A copy of the SO-147 will be sent to the SRT.
5. All known and suspected information regarding the suspects and residence of the pending search warrant will be documented on the SO-147.
6. Based upon the risk factors involved in the SO-147, consultation between the supervisor in charge and the SRT Commander may be mandated.
7. Significant disagreements between the supervisor in charge and the SRT Commander can be resolved at any level in the command structure with final approval by the Special Operations Division Commander if needed.
8. Should the risk level determine SRT will NOT be utilized in the execution of the search and seizure warrant, all provisions and notifications contained within this policy must be followed.
9. Supervisors must consider officer safety as the primary factor when determining if SRT should be utilized for search warrant service.
10. If required, a supervisor of the affiant must contact a SRT Team Leader to schedule the search and seizure warrant for execution. The SRT Commander decides what other teams or units will assist in the execution of the warrant.
11. A copy of the completed SO-147 must be provided to the SRT Commander, a Team Leader, or an Assistant Team Leader, in addition to a completed Operational Order and signed search warrant.

12. The supervisor in charge and the SRT Commander or Team Leader will agree on a date/time for the execution and briefing location.
13. The supervisor in charge will notify the SRT Commander or Team Leader of any special considerations that the affiant becomes aware of prior to the briefing, so the SRT can ensure they have sufficient personnel to execute the warrant safely.

L. "No Knock" Entry

1. Given exigent circumstances, a "no knock" entry may be made with the entry team leader's approval on a "knock and announce" warrant.
2. The information used to justify a "no knock" entry is determined based on exigent circumstances that are present and identified at the scene. All exigent circumstances will be documented properly in the corresponding reports.
3. "No knock" entry is appropriate when there is an objectively reasonable belief, based on facts specific to the suspect or situation, that an exigent circumstance exists such that knocking and announcing the officers' presence would be dangerous or futile or would inhibit an effective criminal investigation. Some reasons that could justify "no knock" entry include, but are not limited to:
 - a. Criminal history;
 - b. Known weapons;
 - c. Approach of target location or entry is compromised;
 - d. Subjects trying to flee the residence; and/or
 - e. Any other facts specific to the suspect or situation the supervisor in charge believes would justify a "no knock" entry.
4. Generalizations, not based on the specific suspect or situation, are not sufficient to justify a "no knock" entry. For example, that the suspect is charged with drug possession or drug distribution and people charged with such crimes often possess firearms is not sufficient to justify "no knock" entry.

M. Harford County Task Force Provisions

1. If using another tactical team outside of Harford County, the Task Force will coordinate directly with that respective team for the service of the warrant.

N. De-Confliction

1. Before executing a search warrant (at least 24 hours before when feasible), the affiant must ensure the following is completed:
 - a. High Intensity Drug Trafficking Area (HIDTA) de-confliction – Can be done via a form faxed to HIDTA's Fusion Center or through Case Explorer; and

- b. HCSO Agency de-confliction – By email utilizing the Search Warrant Group distribution list of the pertinent information.

O. Patrol Notification

1. The on-duty Watch Commander/Duty Officer must be notified on the shift that the warrant will be served within the appropriate precinct area.

P. Pre-Raid Surveillance

1. When possible, surveillance should be started and maintained on the target location at least 60 minutes prior to the briefing for the search and seizure warrant.
2. Pre-raid surveillance should include enough personnel to visually observe the target location and be able to follow the suspect or a vehicle leaving the location.
3. Exceptions would apply if surveillance would compromise the case, be physically impossible, or compromise officer safety.

Q. Procedures Upon Entry

1. When executing the search and seizure warrant, a supervisor of the rank of sergeant or above must be present. Corporals may be utilized at target locations if approved by the applicant's lieutenant or higher.
2. Upon entering the location where the warrant is served, Miranda rights will be read to the person(s) in the location.
3. The premises or location of the warrant (unless it is for a vehicle, cell phone, or DNA) will be photographed, or video recorded in its entirety. Deputies that are required to use body-worn cameras will use their body-worn camera during the course of the search in accordance with OPS 0103, Body-Worn Cameras.
4. The search will include the place specified in the warrant, including all places reasonably and logically a part of that building, where the lawfully sought items might be concealed.
5. Only the time necessary under the circumstances may be used to conduct the search.
6. The deputy may seize only those items particularly described in the warrant and any other instrumentalities, fruits or contraband while searching for the things particularly described.
7. A search warrant for a residence or other premises does not permit a search of all the persons present during the search, unless specified in the warrant. Persons may be frisked for the deputy's safety.
8. All evidence located must be photographed in its original location prior to seizing the item.
9. All evidence seized must be packaged pursuant to HCSO guidelines.

10. A search warrant alone does not authorize an arrest, but an arrest may be made during the execution of a search warrant if probable cause is established that a crime is being or has been committed.
11. An inventory must be completed containing an accurate description of all property removed. All copies of the return and inventory sheets must be completed by the assigned seizing officer or the affiant and returned within 10 days.
12. A copy of the warrant, an unsealed affidavit, property inventory and return form must be left with the person in charge of the location searched; if no one is present to accept the paperwork, it must be left in a conspicuous location where it is reasonably protected from loss or damage.

R. Procedures After Execution

1. Return the executed warrant and inventory to the issuing judge within 10 days of execution.
2. All items taken into custody must be handled and processed per Agency procedures and policy.
3. If an Operational Plan was completed, an After-Action Report will be completed.

S. Obtaining Evidence from a Person

1. Search warrants may be required to obtain evidence from a person (e.g., clothing, hair, body fluids).
2. If a deputy has adequate advance information that a suspect has or will have on their person items subject to lawful seizure, then the deputy should obtain a search warrant and should not rely upon the suspect's consent as the authorization for the search.
3. If a suspect or witness refuses when asked to provide exemplars for comparison, the deputy must consult with a state's attorney to determine if a search warrant requiring the production of the desired evidence must be obtained.
4. If a person refuses to permit an authorized search, or if there is good reason not to conduct a public search (e.g., a strip search), a deputy may use reasonable force to detain that person, or to take the person to a place where the search can be appropriately conducted.
5. To execute a search warrant for the search of a person, premises may be entered under the same circumstances and in the same manner as allowed in the execution of an arrest warrant, and reasonable force may be used to make the search.
6. While a search may be made only for those things described in the warrant, any evidence of a crime, revealed in the search or in plain view, may be seized.
7. If a weapon legally possessed is located during a search, deputies may seize it for protection, but the owner of the weapon must be told where it may be retrieved.

T. Assisting Outside Law Enforcement Agencies with Search Warrant Service in Harford County

1. HCSO personnel must notify an on-duty supervisor upon receiving a request from an outside agency to assist with the service of a search warrant within HCSO's jurisdiction.
2. The supervisor receiving the request must:
 - a. Meet with the member(s) of the requesting outside agency and determine what level of assistance is being requested (e.g., uniform presence, Special Operations assistance);
 - b. Verify the outside agency has a current and valid search warrant;
 - c. Verify the warrant address and the precinct where it is located;
 - d. Notify the Duty Officer in that precinct; and
 - e. The Duty Officer where the warrant is to be served must notify and/or coordinate with the appropriate Agency division/unit (i.e., CID, SID, SOD, Precinct, etc.) to assist the requesting agency.
3. The policies and procedures set forth in this policy must be followed if SRT is utilized to serve the search warrant.
4. SRT does not need to be contacted if the requesting agency utilizes their tactical team or personnel for entry.
5. Supervisors must consider officer safety and proper execution of the search warrant before allowing members, not assigned to SRT, to participate in the initial entry of the warrant location.
6. Members may also assist in securing the perimeter and investigative responsibilities after the warrant is served and the location is declared safe.

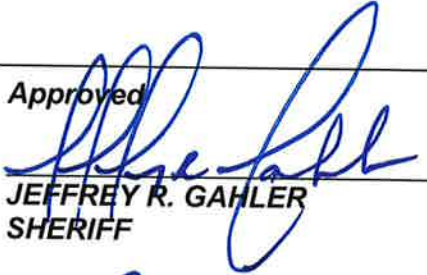
U. Exception to Warrant Requirement

1. To avoid a possible loss of evidence, property under the temporary control of a deputy may be held while a warrant authorizing a further search is obtained.
2. In certain circumstances where probable cause to obtain a warrant does not immediately exist, the property may be held pending a reasonably brief investigation to determine whether there is probable cause for a search warrant.

V. Reporting of Search Warrants

1. Following the service of any search warrant, the supervisor of the lead investigator completing the incident report will complete a miscellaneous service entry for the search warrant in the Law Enforcement RMS.
2. The following information will be captured in the RMS miscellaneous service entry:
 - a. Whether or not the search warrant was a no-knock search warrant;

- i. If the search warrant was a no-knock:
 - a) The legal basis for the no-knock search warrant;
 - b) The name of the county and municipal corporation and zip code of the location where each no-knock search warrant was executed; and
 - b. The date of issuance of the warrant and the date of the execution of the warrant.
 - c. If forced entry was required to serve the search warrant;
 - d. If SRT was deployed to execute the entry of the search warrant;
 - e. How many persons were arrested as a result of the search warrant;
 - f. If property was seized during the execution of the search warrant;
 - g. If a deputy fired their service weapon during the execution of the search warrant;
 - h. If a domestic animal was injured or killed during the execution of the search warrant by a law enforcement officer; and
 - i. The record linked to the incident and/or calls for service.
3. The supervisor that has completed the RMS miscellaneous service entry will make note of the Miscellaneous Service Number that is automatically generated from this entry. This number will be entered on the After-Action Report, if completed, or the Incident Report, for each search warrant entered in the RMS.
 4. The Planning and Research Division will compile a report from the aforementioned data for submission to the Governor's Office of Crime Prevention, Youth, and Victim Services in the format provided by the Maryland Police Training and Standards Commission and submit this report each year by January 15th for the previous year.

Approved

JEFFREY R. GAHLER
SHERIFF
DATE 9-30-2021