

CITY OF VIRGINIA BEACH POLICE DEPARTMENT

Search Warrant Execution Field Guide



A Guide for Department Personnel for Execution of Search Warrants

*This Field Guide is prepared and updated by the Virginia Beach Police
Department Special Operations.*

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Purpose(CALEA 43.1.5)

The purpose of this guide is to provide a model for all commands to follow during the execution of search warrants. This field guide will not address the procedures or case law for securing a search warrant or preparing a search warrant affidavit; those issues are addressed in the Constitutional Issues Field Guide. This plan is designed to provide guidelines so that the safety of both the executing officers and all others involved is the foremost priority.

Legal Authority

The Virginia General Assembly amended Va. Code § 19.2-56 during the 2020 Special Session, and then amended again in 2021 Special Session I. This amendment, which took effect upon the Governor's signature on March 1, 2021, states in part:

B. No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search warrant. A search warrant for any place of abode authorized under this section shall require that a law-enforcement officer be recognizable and identifiable as a uniformed law-enforcement officer and provide audible notice of his authority and purpose reasonably designed to be heard by the occupants of such place to be searched prior to the execution of such search warrant.

After entering and securing the place to be searched and prior to undertaking any search or seizure pursuant to the search warrant, the executing law-enforcement officer shall give a copy of the search warrant and affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not present, to any occupant of the place to be searched. If the place to be searched is unoccupied, the executing law-enforcement officer shall leave a copy of the search warrant and affidavit in a conspicuous place within or affixed to the place to be searched.

Search warrants authorized under this section for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit; or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously.

A law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless circumstances require the issuance of the warrant after 5 p.m., pursuant to the provisions of this subsection, in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. Such reasonable efforts shall be documented in an affidavit and submitted to a magistrate when seeking such authorization.

Any evidence obtained from a search warrant executed in violation of this subsection shall not be admitted into evidence for the Commonwealth in any prosecution.

Plan

A supervisor will be consulted and review the facts of the case prior to an officer or detective applying for a search warrant. The consultation will include the severity of the crime, the fragility or exigency of the evidence sought, and be evaluated against the need to obtain consent to execute the search warrant of any place of abode after the hours of 5:00 pm and before 08:00 am. If the situation is determined to necessitate the issuance of the warrant after 5 pm, the officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. This information must be presented to the magistrate at the time of application for the search warrant. Officers or detectives will complete the PD-58 (Search Warrant Check Sheet) unless specifically instructed otherwise by a supervisor; for example, administrative search warrants, banking, medical and/or cell phone records would not typically require the use of this check sheet. Officers or detectives who obtain a search warrant (herein referred to as the Case Officer or Case Detective) authorizing the entry into and search of a building or structure shall immediately notify his supervisor or an on-duty supervisor from his command at the time the warrant is issued. The Command Duty Officer (CDO) shall also be notified before any search warrant is served.

Once it is determined that a search warrant plan will be initiated, a supervisor from the command that will execute the warrant will assume the role of Incident Commander under the ICS model. (See Directive 13.01 for further details on NIMS and ICS). The Incident Commander (IC) will be responsible for all personnel and actions taken during the operation. The IC can change due to the complexity of the mission, or the timeline involved. The IC can be a higher-ranking member if there are multiple agencies involved or officers from multiple commands are present.

The event should be divided into three phases for effective preparation and planning: the operational plan, the warrant service, and the after-action report.

Operational Plan

The IC will review intelligence information regarding the location where the search warrant will be served. Additionally, intelligence information will be obtained for all known or suspected occupants of the location that will be searched. This information can be obtained through arrest records, CCH reports, address histories, informant interviews or previous police incidents at that address. The background intelligence is imperative for the safety of all persons present when the warrant is served.

Visual inspection and identification of the location should be made by the affiant, or another officer/detective involved with the investigation prior to serving the warrant. This will help develop the safest approach route and confirm the correct address is served. In some instances, it may be impractical to drive by the target location without compromising the operation. The IC should consider using pictometry software or aerial photographs as an alternate source of information when a visual drive by is not practical.

Once the intelligence information has been collected and reviewed, the IC will request the necessary resources to serve the warrant safely and effectively. The concern with any forced entry into a building is the possibility of an armed or violent encounter inside.

Any time the intelligence indicates that there is likely a violent offender, suspects with a violent criminal past, or where firearms may be present inside a location the Special Weapons and Tactics (SWAT) Team shall be requested. (Refer to General Order 13.03, *Special Weapons and Tactics Team*).

The utilization of a surveillance team should be considered if the location can be effectively watched without compromising the mission or the upcoming search warrant entry. All updated intelligence will be communicated to the IC. Based on this updated information, the Operational Plan may require modification.

The Operational Plan will list all officers involved and include their respective assignments. The IC should relay all pertinent information, applicable pictures, and directives during the briefing. Everyone involved in the warrant service shall attend the briefing, except those deployed as a surveillance or perimeter team and are already on scene. Logistical matters such as transportation, parking, staging, and communications must be included in the briefing. The IC should secure a separate radio frequency for communications during the execution of the search warrant.

The IC should prepare for all contingencies. These contingencies can include fortified doors, shots being fired, large crowds inside, a compromised approach, and the like. In all cases, the safety of everyone involved in the execution of the warrant must be paramount. A thorough review of the PD-58 (Search Warrant Check Sheet) will provide the IC with the necessary information to render a reasonable assessment of the circumstances and execution of the search warrant.

Warrant Service of a Person or a Place

Under the new language in § 19.2-56, a search warrant for any place of abode authorized under this section shall require that a law-enforcement officer be recognizable and identifiable as a uniformed law enforcement officer and provide audible notice of his authority and purpose reasonable designed to be heard by the occupants of such place to be searched prior to the execution of such search warrant.

The Incident Commander will conduct a briefing of the operational plan at predetermined briefing area near the target location. This will be done immediately prior to the warrant being served. If the warrant is served by a specialty unit (i.e., SWAT, SI or Detective Bureau), an on-duty supervisor from the precinct in which the warrant is served and the CDO shall be notified prior to the warrant service.

Information about the warrant, target location or suspects involved shall not be disseminated to unauthorized personnel. The IC shall insure that all documents relating to the warrant and the operational plan are collected after the briefing and not left for others to intercept. In rare instances, it may be necessary for the warrant to be served without advance notice to precinct personnel. This will be at the discretion of the Incident Commander and determined on a case-by-case basis.

The Supervisor of the officer/detective obtaining a search warrant shall ensure there will be sufficient staffing on scene to take control of any persons detained during execution of the search warrant. The on-scene supervisor will ensure that all officers have the

necessary resources to serve the search warrant effectively. All officers shall wear their issued body armor and bring their flashlight. Officers will await word from the on-scene supervisor or IC to proceed once all officers are in place and ready. The on scene supervisor or IC will be responsible for initiating the warrant service.

Search Warrant Service

Before entering, or forcing entry, into a dwelling to execute a search warrant, the following must be accomplished by the executing officers (commonly referred to as the “knock and announce” rule):

- A. Knock
- B. Identify themselves as police officers.
- C. Indicate the reason for their presence.
- D. Wait for the occupants to answer the door.
- E. Unless sealed, give a copy of the warrant and affidavit, leaving an affidavit for a warrant that is going to be sealed is still unresolved.

After entering and securing the place to be searched and prior to undertaking any search or seizure pursuant to the search warrant, the executing law-enforcement officer shall read and give a copy of the search warrant with copy of affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not present, to any occupant of the place to be searched. If the place to be searched is unoccupied, the executing law-enforcement officer shall leave a copy of the search warrant suitably affixed to the place to be searched.

The supervisor on scene will inspect the property for damage associated with the warrant service. All damage and injuries will be documented on a DF-75 report. Pictures shall be taken to document the damage and/or injuries. The IC may photograph the property to document a lack of damage to dispute any future claims of damage or subsequent litigation.

Warrant Service for Digital Records

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or outside the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider.

Notwithstanding the provisions of § [19.2-57](#), the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider.

The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk of the circuit court of the county or city where the warrant was issued or (B) issued, if executed outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § [19.2-70.3](#) using the same process described in the preceding paragraph.

Notwithstanding the provisions of § [19.2-57](#), any search warrant for records or other information pertaining to a customer of a financial institution as defined in § [6.2-604](#), money transmitter as defined in § [6.2-1900](#), commercial business providing credit history or credit reports, or issuer as defined in § [6.2-424](#) may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.

After-Action Report

Once the incident has concluded the IC will debrief the event with all officers involved.

The Incident Commander, or designee, will submit the After-Action Report (AAR) utilizing the appropriate Incident Command System Forms unless specifically instructed otherwise by a supervisor; for example, administrative search warrants, banking, medical, and/or cell phone records would not typically require an AAR.

The AAR will list any problems encountered, training needs identified, and other pertinent information associated with executing the search warrant. This report shall also include everyone's identity inside the target location when the warrant was served.

All PD-136s shall be submitted prior to the end of the shift. The AAR shall be submitted as soon as it can be accurately completed.