

ALBUQUERQUE POLICE DEPARTMENT  
\* PROCEDURAL ORDERS\*

Effective: 06/07/2005; Replaces: 03/11/97  
05-POR9

## 2-16 EXECUTION OF SEARCH WARRANTS

### POLICY:

Standardized procedures will be followed in the execution of search warrants to ensure the effectiveness of the operation, the safety of personnel and the public, and that all legal requirements are met.

### RULES:

#### 2-16-1 RESPONSIBILITIES OF AFFIANT OR AFFIANT'S REPRESENTATIVE

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It is the responsibility of the affiant, or the affiant's representative to:

- A. Brief the supervisor about the circumstances of a warrant prior to presenting the warrant to the District Attorney's office, secure the District Attorney's approval, and present the warrant to the judge for approval by the judge.
- B. Ensure that a supervisor is present at the scene on all search warrants involving a dwelling or occupied structure and that the supervisor is thoroughly briefed before the search warrant is executed. **Unoccupied structures will require a supervisor's presence due to the possibility of an offender returning. A supervisor does not need to be present when the seized item to be searched is in police custody. (i.e .a vehicle that was sealed and towed to the Metropolitan Forensic Science Center, or a bag or backpack item tagged into evidence).**
- C. Ensure intelligence is gathered as is practical and reasonable given all the circumstances surrounding the warrant prior to the execution of the warrant.
- D. Brief all participants about the area to be searched, items to be seized and any significant unusual circumstances which may exist involving the premises or its occupants. In situations where exigent circumstances are anticipated, the affidavit will include detailed facts upon which exigent circumstances are believed to be present.
- E. Ensure all necessary copies of the warrant are brought to the scene. Give the defendant's copy of the warrant and affidavit to the defendant, if present, or leave on the premises along with a copy of the inventory of all items seized.
- F. Be responsible for the return of the warrant, affidavit, and inventory to the District Court Clerk within three days.
- G. Ensure necessary containers for evidence collected pursuant to the warrant are brought to the scene.

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- [5] H. If a diversionary tactic (ruse) that has the potential to adversely affect or disrupt the public, is needed for the effective service of a search/arrest warrant, or for the implementation of a court-ordered electronic listening/homing device, the tactic must be reviewed prior to approval by the City Attorney's Office and the Chief of Police after collaboration with the Deputy Chief of Police - Investigations Support Bureau.

2-16-2 RESPONSIBILITIES OF THE SUPERVISOR IN CHARGE

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- A. The supervisor in charge will be the supervisor of the affiant.

Prior to serving a warrant the supervisor in charge will:

1. Be thoroughly briefed by affiant or affiant's representative and review the search warrant for probable cause prior to its being presented to the District Attorney's office. Additionally, ensure all significant, unusual circumstances regarding the premises or occupants are included in the warrant.
2. Accompany officers on all search warrants involving a dwelling or occupied structure to ensure that:
  - a. all officers who are part of the initial entry team are wearing a standard patrol uniform or the range uniform (BDU), and
  - b. an adequate number of personnel are appropriately deployed.
3. Determine whether other agencies should be notified and included in the search; ensure appropriate measures are taken to make such notification and ensure such participation.
4. Ensure that specific tasks are assigned to each officer involved in the search as well as the assignment to videotape or photograph the scene after the scene is secure.
5. Notify a commanding officer of the plan to serve a search warrant. The commanding officer will be responsible for making a determination whether or not Tactical Team will be used.
6. Notify Radio Control no later than 15 minutes prior to the service of the warrant of:
  - a. The location of the search.
  - b. The time of the search.
  - c. The unit or division responsible for the execution of the warrant.
  - d. Any special circumstances relating to the service of the warrant.
  - e. The approximate time the warrant will be served.
  - f. Log the location of the warrant on the MDT.
  - g. **Contact Outside**

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**h. Notify other jurisdictions of presence in their area and who is there, why and have them take the lead.**

7. Ensure that if a warrant is to be served outside the city limits, the appropriate agency is notified prior to the service of the warrant. Representatives of that agency should be present, if possible and if they so desire, when the warrant is served.

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8. If a ruse that has the potential to adversely affect or disrupt the public is needed to effectively serve the search warrant, ensure that the tactic has received proper review and approval as outlined in subsection 2-16-1 H.

9. Secure the area command frequency during the initial entry and until the premise is secured.

B. If the Tactical Team is not going to be used, the supervisor in charge will:

1. Make certain that all officers who participate in the execution of the search warrant are wearing clothing which clearly displays the badge of office on the chest and the Albuquerque Police Department shoulder patch that clearly identifies them as police officers prior to the execution of the warrant. Ensure everyone involved in the execution of the warrant is wearing protective body armor.

- If an approved ruse tactic is to be used in order to effect the initial entry to a premises, the supervisor in charge will determine if the official clothing with the badge and patch identifying them as police officers will or will not be worn.

2. Assign officers to points of entrance and exit as necessary until entry has been made.

3. Be responsible for the decision to use force to gain entry in all situations where exigent circumstances are believed to exist.

4. Ensure officers only use those tactics for which they are adequately trained.

5. Ensure all persons involved in the execution of the warrant tape record the service of the search warrant. Ensure simultaneous activation of the belt tapes prior to entry and simultaneous de-activation of the belt tape once the premise is secured. This will include all persons on the entry team as well as all persons on the curtilage. Ensure all tapes are collected and tagged into evidence by the case agent or his/her designee. This section shall not apply to those situations where the scene has been secured prior to obtaining a search warrant.

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6. Ensure police authority and intent shall be clearly announced at the appropriate time. The responsibility for making such announcement is to be specifically assigned.
7. Ensure a marked unit is parked on location and ensure the marked unit initiates red lights and begins making announcements over public address simultaneous to the service of the warrant. This section shall not apply to those situations where the scene has been secured prior to obtaining a search warrant.

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C. After the warrant is served, the supervisor in charge will:

Ensure the following tasks are accomplished once entry has been made:

1. Immediately after the area to be searched is secured, ensure that the scene is videotaped or photographed prior to the search. When appropriate, ensure evidence is videotaped or photographed as it is discovered, prior to its seizure and removal. Ensure the scene is videotaped or photographed after the search is completed.
2. Assign officers to specific areas of the scene to protect the scene, search for evidence, and prevent the destruction of evidence.
3. All occupants of the residence shall be located as quickly as possible. All persons found on the premises will be placed in a designated area which has been searched and secured, with an officer present at all times. Each person will be identified in a reasonable period of time and if the person is not a resident of the house, if the officers have no specific reason to fear the person, or the officers have no reasonable basis to believe the person has some type of connection to the premises or to criminal activity, then the person will be released.  
Persons will be frisked for the safety of the officers. However, they should not be searched unless it is specifically indicated in the search warrant, or if there is probable cause to believe the persons are concealing or will destroy any possible evidence.
4. Enter on the return and inventory the specific description of found evidence, the location where found, and the name of the officer who found the evidence. When multiple items are to be listed, a separate inventory sheet should be used if necessary.
5. Inventory all seized property.
6. Maintain seized evidence and ensure it is tagged into evidence.
7. Prior to leaving the premises after completing the warrant service and search, make every reasonable attempt to secure the premises.
8. Ensure that every officer present completes a supplementary report detailing their actions and identifying the location of any evidence they collected.

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- D. If the Tactical Team is going to be used, the supervisor in charge will:
  - 1. Have the individuals who will be conducting the search stand-by in a pre-designated outer perimeter area or assigned post.
  - 2. Resume control of the situation after being advised by the Tactical Team supervisor that the premise to be searched is secure.

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**KNOCK AND ANNOUNCE/FORCEFUL ENTRY**

- A. Officers are required to knock and announce their identity and purpose and to wait a reasonable time to determine if consent to enter will be given prior to forcefully entering a residence to execute a search warrant unless exigent circumstances exist
- B. Forced entry may be justified by exigent circumstances. Exigent circumstances are defined as an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or destruction of evidence. Exigent circumstances include, but are not limited to:
  - 1. Demonstrable risk that evidence will be destroyed while officers wait to be denied entry.
  - 2. Specific information exists indicating that danger to officers or others present may be increased or a reasonable belief exists that full or partial compliance with the Knock and Announce rule would create or increase the risk of violence towards officers.
- C. The supervisor in charge will confer with a commanding officer on warrants that may require force to gain entry prior to serving the warrant.
- D. When reasonable, the supervisor in charge may contact the property owner to gain entry.

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**USE OF THE TACTICAL TEAM**

- A. The supervisor shall make a determination, based on available information, whether the Tactical Team will be used to execute a warrant. The supervisor will notify the commanding officer of such determination and the basis for such. The commanding officer will have the responsibility for making the final decision.
  - 1. The Tactical Team shall be used in all situations in which the suspect is known to be armed and is likely to use armed resistance.
  - 2. The Tactical Team shall be used in all situations where the location is believed to be a large scale drug manufacturing location where explosive chemicals are used.

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3. The Tactical Team should be consulted when the risk to officers and citizens may be significantly diminished because the TACTICAL Team's training, equipment and/or tactics significantly decrease the ability of the suspect to threaten the safety of officers and citizens. Examples of such situations include but are not limited to:
  - a. The suspect's background reveals a propensity towards violence.
  - b. The location will be difficult to enter or secure because of size, location or fortification.
  - c. The location is such that neighborhood or patron sympathy could cause hostilities toward the police.
- B. The Tactical Team supervisor will be responsible for:
  1. Ensuring specific tasks are assigned to each officer.
  2. Controlling the premises until it is secure.
  3. Coordinating with the affiant's supervisor.
  4. Ensuring all participants are briefed about the area to be searched, items to be seized and any significant unusual circumstances which may exist involving the premises or its occupants.
  5. Accompanying officers to the scene.
  6. Determining the number of personnel to be deployed, as well as whether other agencies should be used.
  7. Making certain all officers who participate in the execution of the search warrant are wearing clothing which clearly displays the badge of office on the chest and the Albuquerque Police Department shoulder patch, unless circumstances justify the need to use an approved ruse tactic to effect initial entry.
  8. Ensuring rescue and ambulance are on stand-by, at the scene.
  9. Ensure all persons involved in the execution of the warrant to tape record the service of the search warrant. This will include all persons on the entry team as well as all persons on the curtilage. Such recording shall include, at a minimum, the period of time from just prior to entry until after the premises is secured. All tapes will be tagged into evidence in a timely manner.
  10. Ensure police authority and intent shall be clearly announced at the appropriate time. The responsibility for making such announcement is specifically assigned.
  11. Ensure a marked unit is parked on location and ensure the marked unit initiates red lights and begins making announcements over public address simultaneous to the service of the warrant. This section shall not apply to those situations where the scene has been secured prior to obtaining a search warrant.

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2-16-5 COMMUNICATIONS RESPONSIBILITIES  
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- A. Radio Control will be responsible for advising all Communications personnel of the impending service of the warrant as soon as possible but no later than the scheduled start time of the service of the warrant.

Such advisement will include at least the following:

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1. Posting written notification in a location clearly visible to all 911 and Dispatch personnel which includes the location, the time, involvement of Tactical Team and any other special information relating to the service of the warrant.
  2. Use of the computer system to send a message to all Communication's consoles.
  3. Vocally advise personnel of the posting of notification of warrants.
- B. Communications personnel will be responsible for regularly checking the posting location to view new information.