



**2-70 EXECUTION OF SEARCH WARRANTS**

**Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):**

A. Related SOP(s)

- 1-87 Scientific Evidence Division (Formerly 5-5)
- 1-92 Special Weapons and Tactics (SWAT) (Formerly 6-8)
- 2-8 Use of On-Body Recording Devices (Formerly 1-39)
- 2-71 Search and Seizure Without a Warrant (Formerly 2-17)

B. Form(s)

- PD 3119 Pre-Planned Search Warrant Risk Assessment Matrix Log
- PD 3118 Risk Assessment Matrix Checklist
- PD 3109 Risk Assessment Matrix Pre-Planned Search Warrant Service State of New Mexico Return and Inventory

C. Other Resource(s)

- N.M. Dist. Ct. R. Crim. P. 5-211 Search Warrants
- N.M. Metro. Ct. R. Crim. P. 7-208 Search Warrants

D. Rescinded Special Order(s)

None

**2-70-1 Purpose**

The purpose of this policy is to establish guidelines and standards for executing search warrants.

**2-70-2 Policy**

It is the policy of the Albuquerque Police Department (Department) to follow standardized procedures during the execution of search warrants to ensure the effectiveness of the operation, the safety of personnel, and the public, and that all federal, state and local laws are met.

**N/A**

**2-70-3 Definitions**

A. Affiant

A person who swears to an affidavit.

B. Diversionary Tactic



A tactic used to distract the individual from the main point of entry.

C. Exigent Circumstances

An emergency situation(s) requiring swift action to prevent imminent danger to life, to forestall the imminent escape of an individual, or the destruction of evidence.

D. Ruse

A tactic that hides the identity of sworn personnel as law enforcement and/or the circumstances for their presence.

**2-70-4 Rules and Responsibilities**

**6** A. The Affiant shall:

1. Brief their supervisor about the circumstances of a warrant before presenting it to the District Attorney's (DA) Office, secure the DA's approval, and present the warrant to the judge for approval;
2. Obtain judicial approval for nighttime warrant execution if a nighttime warrant is required;
3. Ensure that a supervisor is present at the scene of all search warrants involving a structure and ensure that the supervisor is thoroughly briefed before the search warrant is executed;
  - a. Supervisors do not need to be present at the execution of a search warrant for vehicles or other non-structural items already in police custody;
4. Brief all personnel involved in the search warrant service about the area to be searched, items to be seized, and any significant, unusual circumstances that may exist involving the premises or its occupants;
5. Ensure necessary copies of the warrant are brought to the scene and provided to the case agent or their designee;
6. Provide a copy of the warrant and affidavit to the person whose property was searched, if present, or left on the premises, along with a copy of the inventory of all items seized; and
7. Return the warrant, affidavit, and inventory promptly to the District Court Clerk but within three (3) calendar days, consistent with New Mexico Rules of Criminal Procedure for the District Courts and Metropolitan Courts for search warrants.

**5** B. Ruses must be reviewed prior to approval by the City Attorney's Office and the Chief of Police, after collaboration with the Investigative Bureau Deputy Chief, if:



1. A ruse that has the potential to affect adversely or disrupt the public is needed for the effective service of a search warrant; or
2. The warrant authorizes a court-ordered electronic listening/homing device.

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C. Supervisor in Charge

1. The supervisor in charge shall:
  - a. Before serving a warrant, be thoroughly briefed by the affiant and review the search warrant for probable cause before it is presented to the DA's Office. Additionally, the supervisor in charge shall ensure that all significant, unusual circumstances regarding the premises or occupants are included in the warrant;
  - b. During the execution of a warrant for the search of a structure, accompany sworn personnel and be physically present when the warrant is executed;
  - c. Determine whether other agencies should be notified and included in the search and ensure appropriate measures are taken to make such notification and ensure such participation;
  - d. Ensure that specific tasks are assigned to each officer involved in the search, as well as the assignment of an officer to videotape or photograph the scene after the scene is secure, consistent with SOP Use of On-Body Recording Devices and SOP Scientific Evidence Division;
  - e. Notify the Emergency Communications Center (ECC) no later than five (5) minutes prior to the service of the warrant. This notification shall include the following facts:
    - i. The location of the search;
    - ii. The unit or division responsible for the execution of the warrant;
    - iii. Any special circumstances relating to the service of the warrant; and
    - iv. The time the warrant will be served.
  - f. If a warrant is to be served outside of the Department's jurisdiction, the Department shall ensure that all sworn personnel involved in the execution of the search warrant have valid cross-commission authority for that jurisdiction; and
  - g. Secure the area command frequency during the initial entry and until the premise is secured.
2. If the Tactical Section is not going to be used, the supervisor in charge shall:
  - a. Make certain that all sworn personnel who participate in the execution of the search warrant wear clothing that clearly displays the badge of office on their chest and the Department shoulder patch that clearly identifies them as sworn personnel before the execution of the warrant;
    - i. The supervisor in charge shall ensure that everyone involved in the execution of the warrant is wearing protective body armor.



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

**SOP 2-70 (Formerly 2-16)**

**P&P Draft 10/19/2022**

- b. Assign sworn personnel to points of entrance and exit as necessary until an entry has been made;
  - c. Be responsible for deciding to force entry in all situations where exigent circumstances are believed to exist;
  - d. Ensure all Department personnel involved in the execution of the warrant shall record the service of the search warrant, consistent with SOP Use of On-Body Recording Devices. The supervisor in charge shall ensure all recordings are tagged into evidence by the case agent or their designee;
  - e. Ensure police authority and intent is clearly announced at the appropriate time. The responsibility for making such announcement is to be specifically assigned by the supervisor in charge; and
  - f. When appropriate, ensure a marked unit is parked on location and ensure the marked unit initiates emergency overhead lights and makes announcements over public address simultaneous to entry to execute the warrant. This section shall not apply to those situations where the scene has been secured before obtaining a search warrant.
3. After the warrant is served, the supervisor in charge shall:
- a. Ensure the following tasks are accomplished:
    - i. Immediately after the area to be searched is secured, ensure that the scene is videotaped or photographed before the search. The supervisor in charge also shall ensure that the scene is videotaped or photographed after the search is completed. The supervisor shall ensure evidence is videotaped or photographed as it is discovered, before its seizure and removal, consistent with SOP Scientific Evidence Division;
    - ii. Assign sworn personnel to specific areas of the scene to protect the scene, search for evidence, and prevent the destruction of evidence;
    - iii. Locate all occupants of the structure as quickly as possible. Each person shall be identified within a reasonable period of time, and if the sworn personnel have no specific reason to fear the person or if sworn personnel have no reasonable basis to believe that the person has a connection to criminal activity, then the person shall be allowed to leave. All persons remaining on the premises shall be directed to a designated area that has been searched and secured, with an officer present at all times;
    - iv. Conduct a pat-down only when the officer has a reasonable, articulable belief that a person may be presently armed and dangerous, consistent with SOP Search and Seizure Without a Warrant;
    - v. Detain a person when there is probable cause to believe that they are concealing or attempting to destroy evidence; however, the person should not be searched unless it is specifically indicated in the search warrant or if there is probable cause to believe a person is concealing evidence of a crime, or if there is probable cause to believe that a person is destroying evidence;
    - vi. Inventory all seized property and enter the property seized on the State of New Mexico Return and Inventory the specific description of the seized



- evidence, the location where it was found, and the name of the officer who found the evidence. The form shall not be two-sided;
- vii. Maintain seized property and ensure it is tagged into evidence;
  - viii. Before leaving the premises, after completing the warrant service and search, make every reasonable attempt to secure the premises; and
  - ix. The supervisor in charge shall ensure that every officer present completes a supplemental narrative report detailing their actions and identifies the location of any evidence they collected and any exigent circumstances that justified a forceful entry without knocking and announcing.

4. If the Tactical Section is going to be used, the supervisor in charge shall:

- a. Have the individuals conducting the search stand-by in a pre-designated outer perimeter area or assigned post; and
- b. Resume control of the location after being advised by the Tactical Section supervisor that the premises are secure.

**5** D. Knock and Announce/Forceful Entry

- 1. Sworn personnel shall not seek or engage in executing pre-planned, no-knock warrants.
- 2. Sworn personnel shall knock and announce their identity and intent to serve a search warrant.
- 3. Before entering, sworn personnel shall consider the totality of the circumstances and wait a reasonable amount of time depending on the size of the structure and whether a reasonable person would have an opportunity to consent to the entry to determine if they shall be granted consent to enter.
  - a. When feasible, the supervisor may contact the person with authority over the property and secure access to the property to gain entry.
- 4. Upon the approval of the Incident Commander, sworn personnel may enter or make forceful entry, if necessary, if consent is denied.
- 5. Upon the approval of the Incident Commander, sworn personnel may enter or make forceful entry without knocking and announcing themselves or their purpose only if immediate action is needed to prevent imminent danger to life, to forestall the imminent escape of the individual, or the destruction of evidence.
- 6. Any time sworn personnel rely on exigent circumstances, they shall thoroughly and chronologically document what the exigency was and what actions they took in response. The Incident Commander shall report the reasons for the forceful entry in a supplemental narrative report.

**6** E. Use of the Tactical Section



1. Sworn personnel shall use the Risk Assessment Matrix (RAM) and RAM Checklist for all pre-planned search warrants, regardless of whether the Tactical Section is activated and deployed to the scene. The RAM does not apply to arrest warrants, vehicle search warrants, or a call-out as a result of an ongoing incident.
2. The RAM and RAM Checklist shall be submitted through the division's chain of command, up to the lieutenant. The lieutenant shall:
  - a. Consult the RAM Checklist and packet to determine if the packet is complete;
  - b. Consider all aggravating and mitigating factors;
  - c. Ensure the case agent consults with the Tactical Section regarding any aggravating circumstances; and
  - d. Determine whether the RAM score is correct.
3. The RAM, RAM Checklist, and Pre-Planned Search Warrant Risk Assessment Matrix Log shall be kept on file by the assigned division for a period of at least five (5) years. The Pre-Planned Search Warrant Risk Assessment Matrix Log shall be turned into the Special Operations Division (SOD) no later than the fifth (5<sup>th</sup>) of every month. If the fifth (5<sup>th</sup>) of the month falls on a weekend, it shall be due the following regularly scheduled workday.
  - a. When SOD or the Professional Standards and Accountability Bureau requests a case file from the Pre-Planned Search Warrant Risk Assessment Matrix Logs, the division/area command shall have three (3) business days to send the requested cases.
4. The Unit supervisor is responsible for ensuring the RAM and RAM Checklist are completed correctly and included in the original case file.
5. If a Tactical response is required, Unit supervisors shall be responsible for continually assessing each planned search to determine if it requires a tactical response. Unit supervisors shall also be responsible for direct communication with Tactical supervisors prior to and as operations are conducted.

**6** F. RAM Audit Remediation Process

1. A Tactical administrative supervisor shall conduct the RAM audit consistent with SOP Special Weapons and Tactics (SWAT).
2. During a RAM audit, if a deficiency is identified that the affected division head/area commander does not agree with, the Tactical Section Lieutenant shall meet with the lieutenant who approved the RAM. They shall then jointly go through supporting documentation and rescore the RAM.
3. The Tactical Section Lieutenant or their designee shall provide the findings to the SOD Commander as to whether there is improper scoring by the investigator and



their chain of command; whether there is a policy deficiency; and/or whether there is a deficiency with the RAM.

4. If the lieutenants do not agree, the SOD Commander shall review all supporting documentation and determine if there is a deficiency or if a policy and/or RAM revision are needed.
5. The division head/area commander, after consultation with the SOD Commander, shall develop and implement a remediation plan for the deficient investigator.

**6**

G. Documentation

1. The Incident Commander shall ensure that all actions taken by sworn personnel in executing a search warrant are reported including, the reasons for their actions. In particular, sworn personnel shall:
  - a. For a forceful entry of a structure, document the circumstances and reasons for the forceful entry;
  - b. For a no-knock entry based on exigent circumstances pursuant to 2-70-4, Subsection D.5., document the circumstances and reasons that led to the decision that a no-knock entry was necessary; and
  - c. For an entry after announcing their identity and purpose, document the time between the announcement and entry and the reasons for the wait time.



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- 2-71 Search and Seizure Without a Warrant (Formerly 2-17)
- ~~5-5 Scientific Evidence Division (SED)~~

#### B. Form(s)

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- State of New Mexico Return and Inventory

#### C. Other Resource(s)

- N.M. Dist. Ct. R. Crim. P. 5-211 Search Warrants
- N.M. Metro. Ct. R. Crim. P. 7-208 Search Warrants

#### D. Rescinded Special Order(s)

- ~~SO 18-50 \*\*\*Amendment\*\*\* Risk Matrix and Tactical Activations~~
- ~~SO 18-100 Search Warrant Templates to Be Used~~ None

### 2-70-1 Purpose

The purpose of this policy is to establish guidelines and standards for executing search warrants.

### 2-70-2 Policy

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### 2-70-3 Definitions

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**2-70-4 Rules and Responsibilities**

**6** A. The Affiant ~~shall~~ will:

1. Brief their supervisor about the circumstances of a warrant before presenting it to the District Attorney's (DA) Office, secure the ~~District Attorney's~~ DA's approval, and present the warrant to the judge for approval;
2. Obtain judicial approval for nighttime warrant execution if a nighttime warrant is required;
3. Ensure that a supervisor is present at the scene of all search warrants involving a structure and ensure that the supervisor is thoroughly briefed before the search warrant is executed;
  - a. Supervisors do not need to be present at the execution of a search warrant for vehicles or other non-structural items already in police custody;
4. Brief all personnel involved in the search warrant service about the area to be searched, items to be seized, and any significant, unusual circumstances that may exist involving the premises or its occupants;
5. Ensure necessary copies of the warrant are brought to the scene and provided to the case agent or their designee;
- ~~5-6.~~ Provide a copy of the warrant and affidavit to the person whose property was searched, if present, or leave on the premises, along with a copy of the inventory of all items seized; and
- ~~6-7.~~ Return ~~promptly~~ the warrant, affidavit, and inventory promptly to the District Court Clerk but within three (3) calendar days, consistent with New Mexico Rules of Criminal Procedure for the District Courts and Metropolitan Courts for search warrants; and



**5** B. Ruses must be reviewed prior to approval by the City Attorney's Office and the Chief of Police, after collaboration with the Investigative Bureau Deputy Chief, if:

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  - d. Ensure that specific tasks are assigned to each officer involved in the search, as well as the assignment of an officer to videotape or photograph the scene after the scene is secure, consistent with SOP Use of On-Body Recording Devices and SOP Scientific Evidence Division ~~(SED)~~;
  - e. Notify the Emergency Communications Center (ECC) no later than five (5) minutes prior to the service of the warrant. This notification shall include the following facts:
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2. If the Tactical Section is not going to be used, the supervisor in charge shall:
  - a. Make certain that all sworn personnel who participate in the execution of the search warrant ~~are wearing~~ wear clothing that clearly displays the badge of office on their chest and the Department shoulder patch that clearly identifies them as sworn personnel before the execution of the warrant;.



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**P&P Draft 10/19/2022**

- a.i. The supervisor in charge shall ensure that everyone involved in the execution of the warrant is wearing protective body armor;
  - b. Assign sworn personnel to points of entrance and exit as necessary until an entry has been made;
  - c. Be responsible for deciding to force entry in all situations where exigent circumstances are believed to exist;
  - d. Ensure all Department personnel involved in the execution of the warrant shall record the service of the search warrant, consistent with SOP Use of On-Body Recording Devices. The supervisor in charge shall ensure all recordings are tagged into evidence by the case agent or their designee;
  - e. Ensure police authority and intent is clearly announced at the appropriate time. The responsibility for making such announcement is to be specifically assigned by the supervisor in charge; and
  - f. When appropriate, ensure a marked unit is parked on location and ensure the marked unit initiates emergency overhead lights, and makes announcements over public address simultaneous to entry to execute the warrant. This section shall not apply to those situations where the scene has been secured before obtaining a search warrant.
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    - v. Detain a person when there is probable cause to believe that they are concealing or attempting to destroy evidence; however, the person should not be searched unless it is specifically indicated in the search warrant, or if there is probable cause to believe a person is concealing evidence of a crime, or if there is probable cause to believe that a person is destroying evidence;



- vi. Inventory all seized property and enter the property seized on the State of New Mexico Return and Inventory the specific description of the seized evidence, the location where it was found, and the name of the officer who found the evidence. The form shall not be a two-sided form;
- vii. Maintain seized property and ensure it is tagged into evidence;
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2. During a RAM audit, if ~~there is~~ a deficiency is identified that the affected division head/area commander does not agree with, the Tactical Section Lieutenant shall meet with the lieutenant who approved the RAM. They shall then jointly go through supporting documentation and rescore the RAM.



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