

Oakland County Sheriff's Office
General Order # 3.9



SUBJECT: Search Warrants		NUMBER: 3.9
EFFECTIVE DATE: 08/18/2023 REVIEW DATE: Annually		MACP Standard Impact: 3.1.2
REPLACES AND RESCINDS: N/A	DISTRIBUTION: All Personnel	NUMBER OF PAGES: 6

This order replaces and rescinds all previously issued orders, procedures, rules and regulations, notices and/or practices in conflict with this General Order.

I. PURPOSE

It is the purpose of this policy to provide guidelines for obtaining and executing search warrants.

II. POLICY

Based on the United States Constitution and the Michigan Constitution, it is the policy of the Oakland County Sheriff's Office that all deputies have a sound knowledge of the legal requirements associated with obtaining a search warrant in order to prevent suppression of evidence, support the constitutional rights of citizens and to maintain public confidence that the Sheriff's Office will execute search warrants in an ethical and legal manner with the highest degree of safety for all persons concerned. **(MACP Standards 3.1.2)**

III. DEFINITIONS

- A. Search Warrant: An official instrument that authorizes police officers to enter a specific location or to otherwise invade a private activity, and thus to search for specified forms of evidence related to specific behavior in violation of the criminal law.
- B. Administrative Search: An exception to the search warrant requirement which authorizes administrative inspections pursuant to comprehensive licensing and regulation of closely regulated industries by which deputies need not adhere to the usual warrant or probable cause requirements. Administrative searches are done pursuant to a regulatory scheme based on legislative or administrative standards, such as a local ordinance. Regulations provide notice of and implicitly restrict the scope of the inspection to those areas of the business that must be examined to enforce the regulations.
- C. Search Site: A house, building, or other location or place, where the person, property, or item for which the deputy is required to search is believed to be concealed.
- D. Tabulation: Written inventory of all property taken. **(MACP Standards 3.1.2 e)**
- E. Affidavit: A statement of facts establishing probable cause. **(MACP Standards 3.1.2 b)**

IV. PROCEDURES

A. State and Federal Statutes related to Search Warrants

1. In the state of Michigan, MCLA 780.651 gives the statutory requirements for the issuance of a search warrant. **(MACP Standards 3.1.2 c)**
2. The Fourth Amendment to the U.S. Constitution prohibits unreasonable searches. Deputies conducting searches without a warrant— such as those noted in “Search and Seizure – Warrantless Order” bear the burden of proving that the search was reasonable and permissible. Therefore, deputies should consider obtaining a search warrant whenever time and circumstances permit.

B. Legal Basis for Seeking a Warrant

1. In order to obtain a search warrant, a deputy must be able to show probable cause. Probable cause to search is whether certain identifiable objects are likely to be found at the present time in a certain identifiable place. Probable cause exists when a person of reasonable caution would be justified in concluding that evidence of criminal conduct is in the stated place to be searched.
2. Specific facts establishing probable cause shall be set forth with clarity and specificity. Deputies shall not solely rely upon personal opinion, unauthenticated third-party information or hearsay without investigative corroboration. Such facts may be based on:
 - a. Personal observation/knowledge from a deputy
 - b. Personal observation/knowledge from a named non-police source along with investigative corroboration.
 - c. Information from a confidential source.
 - i. When confidential informants are used, the reliability and credibility of the informant and information provided shall be specified. Affiant shall state the nature and reliability of past information and whether past information had proven unreliable.
 - ii. Wherever possible, deputies shall corroborate informant information.
3. Staleness is a factor to be considered in determining probable cause to search. Time as a factor is to be weighted and balanced in relation to other variables, such as whether the crime is a single instance or an ongoing pattern of protracted violations, whether the inherent nature of a scheme suggests that it is probably continuing and whether the property sought is likely to be promptly disposed of or retained by the person committing the offense.

C. Affidavit Preparation (MACP Standards 3.1.2 a, b)

1. An affidavit supporting the application for a search warrant shall be prepared. Deputies seeking warrants in unusual situations, or where the seriousness, nature or legal complexity of the case dictates, should consider reviewing the case with the Prosecutor's Office prior to seeking a search warrant. The accuracy of the affidavit is vital to the validity of the search warrant; thus, deputies shall ensure that the following information is clearly and completely specified:
 - a. The offense shall be described with statutory reference to the type of crime.

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- b. The premises, person(s) or object(s) to be searched shall be described with specificity and deputies shall ensure that the warrant includes the specific reference(s). Where premises are to be searched, references should include:
 - i. A street number (If it is known that a building is a multiple-unit dwelling, the sub-unit or apartment number must be listed).
 - ii. A physical description of the premises, person(s) and/or object(s).
 - iii. Name of the suspect or person subject to the search.
 - iv. The geographical location of the property, including distances from reference points.
 - v. Photographs, maps or diagrams that help to specify the location in question.
 2. Where appropriate, deputies shall consult with the Prosecutor's Office to seek suppression of the affidavits, since affidavits are a public record available from the court upon request by any person.
- D. Review of the Warrant after Authorization
1. Deputies and supervisors shall review search warrants issued by judicial authorities to ensure that they include all pertinent information set forth in the affidavit accurately and completely, and that the warrant has been properly signed. **(MACP Standards 3.1.2 c)**
 2. Deputies shall not attempt to serve any warrant that is known to contain substantive or administrative errors.
- DI. Search Warrant Execution
1. Uniform and Equipment Requirements
 - a. The search team shall include at least one uniformed deputy or officer with a marked patrol unit. The marked Sheriff's Office vehicle equipped with emergency lights shall be parked in such a way as to be visible and allow for immediate egress from the scene.
 - b. All non-uniformed deputies shall be clearly identified as law enforcement officers by a distinctive jacket, or some other indicator of office.
 - c. All members of the search team shall be equipped with and wear body armor.
 - d. Body cameras shall be used according to the Mobile Video Recording/Body Cam General Order.
 2. Time Limitations on Search Warrant Execution
 - a. A search warrant shall be executed as soon as practicable within the permissions granted in the warrant and the conditions stated in state law. Circumstances that may necessitate a delay in executing a search warrant include, but are not limited to, the following:
 - i. The need to have many searches occur at the same time, which requires coordination and mobilization of law enforcement resources.
 - ii. The need for specialized resources for the safe and effective execution of the warrant.
 - iii. The items identified in the search warrant to be seized have not arrived at the search site.
 - iv. The probability that substantial resistance will be encountered at a particular time.
 - v. A particular person(s) is absent from the search site, and the case lead investigator or supervisor feels that the search would best be conducted if that person were present.

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- vi. The need to protect an informant's identity.
3. Preparation for Execution of Warrant
- a. The Affiant of any affidavit who receives an authorized search warrant shall notify their immediate supervisor prior to the execution of any search warrant with the exception of a routine search warrant for a blood draw (MVC 257.627).
 - b. The supervisor shall determine whether the execution of the warrant requires additional resources and consultation with the SWAT Team Commander. Areas for consideration when making that determination include the following:
 - i. The severity of the underlying crime for which the search or arrest warrant is being executed.
 - ii. The criminal history of persons who are likely to be encountered during the execution of the search warrant.
 - iii. The specialized military or other training or education of persons who are likely to be encountered during the execution of the search warrant.
 - iv. Fortifications that would require specialized equipment or personnel to safely breach.
 - v. The existence or suspected existence of surveillance being utilized at the location.
 - vi. The existence or suspected existence of firearms, explosives, or chemicals at the location.
 - vii. The existence or suspected existence of any trap or device at the location, so placed to deter law enforcement.
 - viii. Any other special or unique circumstance or person likely to be encountered during the execution of the search warrant.
 - c. Execution of a search or arrest warrant by the Oakland County Sheriff's Office SWAT Team will be bound by "Special Weapons and Tactics Order."
 - d. If authorized by the supervisor for search warrant execution, prior to entering the premises, the case lead investigator or a supervisor shall conduct a pre-entry briefing of the execution process with all search team personnel. The briefing shall include a review of the actual order of operations and procedures the search personnel will follow, a simulation of the conditions of the search site (using maps, charts and diagrams, when appropriate) and tactics and equipment to be used in the event of forced entry.
 - e. The case lead investigator or supervisor shall attempt to determine if any circumstances have changed that make executing the search warrant at that time undesirable.
 - f. The case lead investigator or supervisor shall ensure that the entire search warrant execution process is documented. A written record shall be supported by photographs.
4. Entry Procedures
- a. The approach to the scene shall be executed without sirens. If a pre-execution surveillance team is on the scene, radio contact shall be made to ensure that it is an appropriate time to serve the search warrant.
 - b. The case lead investigator and supervisor shall be responsible for ensuring that the property about to be searched is the property listed on the warrant.
 - c. The search personnel shall position themselves in the following manner:
 - i. Exits from the premises shall be covered.
 - ii. Uniformed deputies shall be visible members of the perimeter team.

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5. Notification (**MACP Standards 3.1.2 d**)
 - a. Deputies shall knock and announce their presence, identification and demand for entry prior to forcing entry into the premises.
 - b. If circumstances surrounding deputy safety do not permit a physical knock, a statement made by loudspeaker announcing police presence and purpose is permitted.
 6. On-Premises Activities
 - a. Members of the search team shall conduct a security sweep of the search site.
 - b. After the search site has been secured, members shall be responsible for collecting, preserving and documenting all items seized.
 - c. All property being seized shall be tabulated in the presence of at least one other person.
 - d. The case lead investigator or supervisor is responsible to ensure that the search warrant and tabulation are served upon the person in charge of the location or left in a visible location within the residence.
 - e. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, all efforts will be made to secure the property.
 - f. If damage occurs, the report shall detail the actions that caused the damage and give a detailed description of the nature and extent of the damage.
- F. Scope of the Search
1. The search warrant shall specify and deputies shall ensure that the search warrant includes the following:
 - a. All areas that deputies desire to search shall be designated. In all searches of homes, the search warrant should specify a "premises" search and its "curtilage."
 - b. Motor vehicles known to be on the premises that may be searched should be specified.
 - c. If evidence of another crime is located during the search authorized by the warrant, that evidence shall be seized, and another affidavit and search warrant shall be prepared and immediately sought for those items.
 2. Specific items to be searched for shall be detailed. In cases where the item may be dismantled (e.g., firearms), the warrant should authorize search for parts, pieces or components of that item.
 3. Deputies anticipating search of computers and related high-technology equipment should consult with a member of the Computer Crimes Unit for appropriate language to use in the affidavit and procedures for seizure of hardware and software.
 4. A warrant authorizing the search of a premises and certain named individuals does not authorize a search of those not named in the warrant unless a warrantless search is justified.
- G. Evidence Seizure and Documentation (**MACP Standards 3.1.2 e**)
1. Items to be seized shall be tabulated and listed on the return/tabulation.
 2. All seized cash shall be counted and tabulated in front of another deputy.
 3. A copy of the tabulation and the warrant shall be left with the occupant or left in a visible place of the residence.

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4. If no one is at home, a copy of the tabulation form and the warrant shall be left on the premises in a visible place.
 5. At no time shall an affidavit be left with a search warrant.
 6. Items seized shall be detailed in a police report and entered into evidence pursuant to "Property and Evidence Management Order."
- H. Time and Method of Search
1. A search warrant may be served at any time of the day or night.
 2. Anticipatory search warrants may be sought when it can be shown that the evidence in question will be at a specific location at some time in the near future.
 - a. The affidavit shall contain a full and complete description of why the deputies are requesting an anticipatory warrant and shall detail the conditions upon which deputies may execute the warrant.
 - b. Deputies shall ascertain that the search warrant itself contains anticipatory language at the time of issuance.
- I. Return on the Warrant
1. Deputies shall complete a return tabulation on all search warrants using a search warrant tabulation form to include providing a receipt to the proper person for property taken, retention and security of property taken, and return of the warrant and delivery of the property inventory promptly to the issuing court. **(MACP Standards 3.1.2 e)**
- J. Recording
1. A supplementary report to the original case file, detailing actions taken, shall be completed for all search warrants issued to the Sheriff's Office. **(MACP Standards 3.1.2 a)**



ISSUED BY: Sheriff Michael J. Bouchard