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HARFORD COUNTY SHERIFF'S OFFICE OPERATIONAL POLICY

Search & Seizure Warrants

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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 authorize the executing law enforcement officer to enter the 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, without the authorization the property subject to seizure may be destroyed, disposed of, or secreted; or 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. 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 fifteen days from the date issued; and
 - e. be returned with a search warrant inventory report and return within ten days of service to the issuing judge.
5. If applying for a "no knock" search and seizure warrant, the justification must be documented within the probable cause portion of the search warrant.
6. All court approved "no knock" search warrants must be executed by Special Response Team (SRT) personnel.

B. Search Warrant Applications

1. When applying for a search warrant, the affiant must present detailed information in an affidavit to establish probable cause to believe the item sought is in the possession of an individual or being held at a specific location.
2. The affidavit must provide facts to establish that:
 - a. a specific offense has been committed;
 - b. a certain specifically identified item directly related to the offense is being sought; and
 - c. that 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.
3. The application must contain a complete description of the premises, person(s), vehicle(s) and things to be searched.
4. Affidavits may be based on the deputy's knowledge, the knowledge of another person, or the knowledge of a confidential informant.

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 why the deputy believes the person's observations are true; 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

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/source in a search warrant affidavit.
3. When a CI's/source'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 thirty days in order to maintain confidentiality in an ongoing criminal investigation, most commonly for violation of certain controlled dangerous substance (CDS) laws. A state's attorney must petition the judge and ask for the affidavit to be sealed due to the ongoing investigation and that disclosure of the information in the affidavit will jeopardize the investigation.
7. After the affidavit is unsealed, it must be delivered within fifteen 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 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. An application for a search warrant may be submitted to a judge:
 - a. by in-person delivery of the application, the affidavit, and a proposed search warrant;
 - b. by secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or
 - c. by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

G. Judge's Review and Signing

1. The judge will be presented three copies 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 all three copies of the application and affidavit followed by the judge signing all the application and affidavits.
4. The judge will then sign all three search and seizure warrants.
5. The judge will retain one copy of the search warrant.

H. Distribution of Signed Copies

1. The affiant must make one photocopy of the signed application and affidavit and search and seizure warrant. Upon service, the photocopy must be left 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 retained in the affiant's case file.

I. Execution of Search Warrants

1. Once issued, the search warrant may be executed by any law enforcement officer to whom it was issued unless the warrant specifies it is to be served by the affiant or other individual.
2. The warrant must be served within fifteen days of its issuance.

3. A deputy receiving a search warrant must complete an Operations Plan, when appropriate, for the execution of the warrant.
4. The deputy executing the warrant must use good judgment in developing the Operations Plan that is commensurate with the circumstances.

J. Risk Assessment and Preparation

1. The supervisor in charge of the search and seizure warrant or their designee, must complete the Risk Assessment for Critical Incidents and Warrant Services (Form SO-147), prior to the execution of the search and seizure warrant.
2. A copy of the Form SO-147 must be retained in the case file of the investigating deputy.
3. If SRT is utilized for the execution of the warrant, a copy of the Form SO-147 must also be kept in the SRT file for the operation.
4. All known and suspected information regarding the suspects and residence of the pending search warrant should be assigned the corresponding point value on the Risk Assessment for Critical Incidents and Warrant Services (Form SO-147).
5. Upon completion of the Form SO-147, the supervisor in charge is to determine the operational risk level which falls into one of three categories:
 - a. risk level 1 (Low) 0-20 points
 - b. risk level 2 (Moderate) 21-34 points
 - c. risk level 3 (High) 35 points or more
6. If the risk level is low (1), it is up to the supervisor in charge to decide what unit will execute the search and seizure warrant.
7. If the risk level is moderate (2) or high (3), the supervisor in charge must contact the SRT Support Sergeant, Team Leader, or an Assistant Team Leader to determine what unit will execute the search warrant.
8. Significant disagreements between the supervisor in charge and the SRT Support Sergeant, Team Leader, or Assistant Team Leader over the use of the SRT for the execution of the warrant will require consultation between the unit's lieutenant and the Special Operations Lieutenant. Subsequent consultations between the unit's Division Commander and Special Operations Division Commander must take place if a resolution is not successful at the lieutenant level.
9. Should the supervisor in charge determine SRT will NOT be utilized in the execution of the search and seizure warrant (Risk Level 1), all provisions and notifications contained within this policy must be followed.
10. Due to the complex nature of tactical breaching, the use of SRT personnel should be considered when a forced entry is required; however, circumstances may exist, or can reasonably be expected/anticipated that would not require the need for SRT personnel to make a forced entry.

11. Supervisors must consider officer safety as the primary factor when determining if SRT should be utilized for search warrant service. Evidence preservation should also be a key factor in determining the tactics to be utilized for the execution of the search warrant.
12. 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.
13. A copy of the completed Risk Assessment for Critical Incidents and Warrant Services (Form SO-147) must be provided to the SRT sergeant, a Team Leader, or an Assistant Team Leader, in addition to the following information:
 - a. address of premises to be searched.
 - b. type of premises to be searched (single family, apartment, townhome, etc.).
 - c. type of warrant ("knock and announce" or "no knock").
 - d. special considerations:
 - e. number of suspects/occupants.
 - f. suspects/occupants criminal histories.
 - g. type of CDS involved.
 - h. known or possible weapons.
 - i. children/elderly.
 - j. animals.
 - k. any other considerations (cameras, barricaded doors, fences, gates, etc.).
14. The supervisor in charge and the SRT Support Sergeant or Team Leader should agree on a date/time for the execution and briefing location.
15. The supervisor in charge should notify the SRT Support Sergeant 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.

K. "No Knock" Entry

1. A "knock and announce" warrant can be used for "no knock" entry with the entry team leaders' approval given exigent circumstances.
2. The information used to justify a "no knock" entry must be received in good faith.

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 or dispose of evidence.
 - 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.

L. Harford County Task Force Provisions

1. Due to the nature of Harford County Task Force cases, and considering their members' additional training in dynamic entries, the following provisions must be made for their cases:
2. The Special Investigations Division Commander has the discretion to utilize Task Force entry teams on Risk Level 2 warrants, after consultation with SRT.
3. If a Risk Level 2 or 3 warrant is to be executed in another municipality or outside Harford County, the Task Force supervisor has the discretion to utilize their own entry team pursuant to law or an entry team from that respective jurisdiction.
4. 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.

M. Operations Plan

1. Before executing a search warrant, the affiant must complete an "Operational Plan."
2. When feasible, the packet must include:
 - a. photographs of the target location.
 - b. photographs of the suspects/occupants.
 - c. criminal history of the suspects/occupants.
 - d. diagram of residence.

3. It is the supervisor in charge's responsibility to ensure that all personnel involved have the necessary equipment to properly execute the search and seizure warrant safely and effectively.
4. The minimum equipment each deputy must have:
 - a. issued handgun;
 - b. extra ammunition;
 - c. ballistic vest;
 - d. handcuffs;
 - e. flashlight;
 - f. police identifier; and
 - g. police radio.

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.
 - 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. Surveillance should be started and maintained on the target location at least sixty minutes prior to the briefing for the search and seizure warrant.
2. Pre-raid surveillance should include enough personnel to always have a visual on 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 affiant's lieutenant or higher.
2. The premises or location of the warrant will be photographed or video recorded in its entirety.
3. 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.
4. Only the time necessary under the circumstances may be used to conduct the search.
5. 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.
6. All evidence located must be photographed in its original location prior to seizing the item.
7. All evidence seized must be packaged pursuant to HCSO guidelines.
8. A search warrant alone does not authorize an arrest, but an arrest may be made on probable cause developed during execution of the search warrant.
9. 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.
10. 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 ten days of execution.
2. All items taken into custody must be handled and processed per Agency procedures and policy.

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. Global Positioning System (GPS) Tracking Equipment

1. Law enforcement agencies are required to obtain a court order before they can place a GPS tracking device on a motor vehicle to trace the movement of the vehicle for surveillance purposes.

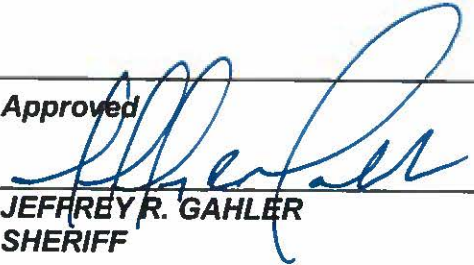
U. Assisting Outside Law Enforcement Agencies with Search Warrant Service in Harford County

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.
 - 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 take into account 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.

V. 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.
3. 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.

Approved 

JEFFREY R. GAHLER
SHERIFF
DATE 7-11-17