

# Executing Search Warrants

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The IACP Law Enforcement Policy Center creates four types of documents: Model Policies, Considerations Documents, Concepts & Issues Papers, and Need to Know one-page summaries. Typically, for each topic, either a Model Policy or a Considerations Document is created, supplemented with a Concepts & Issues Paper. This file contains the following documents:

- [\*\*Model Policy\*\*](#): Provides police agencies with concrete guidance and directives by describing in sequential format the manner in which actions, tasks, and operations are to be performed.
- [\*\*Concepts & Issues Paper\*\*](#): Designed to provide context and background information to support a Model Policy or Considerations Document for a deeper understanding of the topic.

# Model Policy

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## Executing Search Warrants

### I. PURPOSE

The purpose of this policy is to provide law enforcement officers with guidelines for the execution of a search warrant.

### II. POLICY

It is the policy of this law enforcement agency to provide techniques to accomplish a thorough and legal search; respect the constitutional rights of the person(s) the warrant is being served upon; minimize the level of intrusion experienced by those who are having their premises searched; provide for the safety for all persons concerned; and establish a record of the warrant execution process.

### III. DEFINITIONS

- *Search Site:* The premises to be searched, as explicitly stated in the search warrant.
- *Search Personnel:* Law enforcement officers and supporting personnel taking part in the execution of a search warrant.
- *Evidence Collector:* Member of the search team responsible for the possession, packaging, sealing, and marking of all items seized.
- *Case Agent:* The officer primarily responsible for the investigation, and preparing, planning, and implementing the search warrant.
- *Tactical Coordinator:* The officer responsible for planning and supervising tactical operations to include dynamic entry and other tasks requiring special weapons and tactically trained officers.
- *Protective Sweep:* Quick and limited search of premises incident to an arrest or service of a warrant performed in order to identify weapons or other dangers to officers or others. Officers must be able to articulate a reasonable basis for conducting a protective sweep.

## IV. PROCEDURES

### A. Warrant Service Planning

1. The case agent shall advise and receive approval from his or her supervisor before serving the warrant.
2. Selection of officers to serve the warrant shall be based on the officers' prior training and experience in conducting warrant service consistent with the demands of the warrant service in question.
3. The case agent shall ensure the complete preparation for serving the warrant in accordance with its nature and complexity and in consultation with the prosecutor if necessary. (A checklist of possible issues that may be considered in the planning process is attached to this policy for reference). These tasks include but are not limited to the following:
  - a. Gather intelligence on the target site to include the structure, immediate area surrounding the structure, and surrounding neighborhood.
  - b. Assess the capabilities and backgrounds of suspects to include criminal records, and history of weapons usage and potential for violence.
  - c. Determine the best date and time for warrant execution. The warrant shall be executed as soon as practicable as defined by state law.
  - d. Determine equipment, team personnel, and any specialized team requirements.
  - e. Secure a warrant and ensure that it is thoroughly reviewed for accuracy, legal integrity, and completeness.
    - i. No-knock entries, where legally permitted and specified in the warrant, shall be conducted in accordance with state law.
    - ii. The need for a no-knock warrant shall be clearly specified in the application and affidavit for a warrant.
    - iii. Should nighttime service be anticipated or desired, justification shall be included in the affidavit and must be authorized in the search warrant.
    - iv. The tactical team commander shall be consulted whenever a warrant calls for no-knock entry, nighttime entry, or service involving drugs or subjects deemed particularly dangerous.

### B. Preparation for Executing the Warrant

1. The case agent and tactical coordinator, where required, work cooperatively to ensure proper preparation, planning, and service of the warrant. They shall detail procedures for executing the warrant to all team members in a warrant service briefing. The plan briefing shall be conducted by both the case agent and tactical coordinator and will include but not necessarily be limited to the following:
  - a. The specific items subject to the search as defined in the warrant and any available information on their location.
  - b. Information concerning the structure to be search and surroundings, to include floor plans where available, mockups, photos, and diagrams of the location identifying entrances, exits, obstructions, fortifications, garages, outlying buildings, suspect vehicles, and all other points of concern.

- c. Suspects and other occupants who may be present at the location—incorporating photos or sketches whenever possible—with emphasis on suspect threat potential, as well as the presence of children, the elderly or others who may not be involved with suspects.
  - d. A complete review of the tactical plan to include the staging area, route of approach; individual assignments for entry, search, management of evidence, custody and handling of seized vehicles, custody of prisoners, and post-execution duties such as securing the location and conducting surveillance on the site for additional suspects.
  - e. Personnel, resources, or armament necessary for gaining entry, safety and security of officers, or for conducting the search.
  - f. If a joint agency task force operation, all officers participating in the warrant service shall be present and identified as members of the warrant service team.
  - g. Contingency plans for encountering hazardous materials, canines, booby traps, fortifications or related hazards; measures to take in case of injury or accident, to include the nearest location of trauma or emergency care facilities.
  - h. Procedures for exiting the location under emergency conditions.
- 2. The entry team shall at all times include uniformed officers who shall be conspicuously present where the warrant is served. All non-uniformed officers shall be clearly identified as law enforcement officers by a distinctive jacket or some other conspicuous indicator of office.
  - 3. All members of the search team shall wear body armor or ballistic vests as designated by the case agent.
  - 4. Prior to execution of the warrant, the case agent shall attempt to determine if any circumstances have changed that make executing the search warrant undesirable at that time. Where possible, pre-search surveillance shall be conducted up to the point at which the warrant is executed.
  - 5. The case agent shall make a final assessment of the warrant's accuracy in relationship to the location to be searched.
  - 6. The case agent shall ensure that the entire search warrant execution process is documented until the search team leaves the premises. A written record shall be supported by photographs and, if practical, videotaping of the entire search process.

### C. Entry Procedures

- 1. If an advance surveillance team is at the target site, radio contact shall be made to ensure that the warrant can be served according to plan.
- 2. The search personnel shall position themselves in accordance with the execution plan.
- 3. Notification
  - a. An easily identifiable police officer shall knock and notify persons inside the search site, in a voice loud enough to be heard inside the premises, that he/she is a police officer and has a warrant to search the premises, and that he/she demands entry to the premises at once.
  - b. Following the knock and announce, officers shall delay entry for an appropriate period of time based on the size and nature of the target site and time of day to provide a reasonable opportunity for an occupant to respond (normally between 15 and 20 seconds). If there is reasonable suspicion to believe that the delay would create unreasonable risks to the officers or others, inhibit the effectiveness of the investigation, or would permit the destruction of evidence, entry may be made as soon as practicable.

**D. On-Premises Activities**

1. Upon entry, the occupant shall be given a copy of the search warrant.
2. The supervisory officer shall ensure that a protective sweep of the site is performed immediately.
3. After the site has been secured, a photographic and/or videotape record of the premises shall be made prior to conducting the search. Search personnel shall then follow the plan that details the likely whereabouts of the items to be seized and the order of operation for conducting the search.
4. Items specified in the warrant may be searched for in places where they may reasonably be expected to be located and seized, as well as other items that are reasonably recognized as evidence.
5. An officer, designated in the plan, shall be responsible for collecting, preserving, and documenting all items seized until possession is transferred to the evidence custodian, laboratory, or other authority.
6. Cash and currency taken as evidence shall be verified by a supervisor and be transported to a separate safe as designated by department policy.
7. Officers should exercise reasonable care in executing the warrant to minimize damage to property.
  - a. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, arrangements shall be made to guard the premises until it can be secured.
  - b. If damage occurs, justification for actions that caused the damage and a detailed description of the nature and extent of the damage shall be documented. Photographs of the damage should be taken where possible.
  - c. If items are taken from the search site, an itemized receipt shall be provided to the resident/occupant, or in the absence of the same, left in a conspicuous location at the site.
  - d. In a timely manner upon conclusion of the warrant service, the case agent and tactical coordinator shall conduct a debriefing of all participating officers.
  - e. The case agent shall thereafter prepare and submit an after-action report on the warrant service, results of actions taken, and recommendations for further investigative actions.

**APPENDIX A: PRE-SEARCH PLANNING CHECKLIST****A. Target Location Considerations**

1. Can the site be penetrated by gunfire?
2. Does the target site pose a fire hazard?
3. Are there underground parking facilities, attached garages, or additional buildings on the curtilage?
4. Where are the access points, on upper and lower levels, approach issues related to access points, and points of cover at approach point(s)?
5. Which way do doors and windows open?
6. Does the target site have an alarm system or warning device?
7. Is there evidence of reinforced entrances or fortifications?
8. Barred windows or doors
9. Backing mesh
10. Appearance of double locks on doors?
11. Are there any lookouts, and if so, where, how many, warning devices used, signals?
12. Evidence of children, such as bicycles or swings?
13. Evidence of elderly, disabled, handicapped or other uninvolved persons?
14. Unusual obstacles to entrance?
15. Can a reasonably accurate floor plan be obtained or constructed?
16. Attitude of neighbors: hostile or friendly?
17. Evidence of dogs? If so, how can they best be controlled?
18. Where is the electrical box and is it accessible?

**B. Target Suspect Considerations**

1. How many suspects and other persons are involved at the site at particular hours?
2. Are they involved in narcotics?
3. Is there gang involvement?
4. What is the background of the principal suspect(s)?
5. Are there recent photographs or sketches of the suspects?
6. What are the capabilities and backgrounds of suspects?
  - a. Criminal record
  - b. Previous method of operation
  - c. Likelihood of resistance
  - d. Physical and mental conditions of suspects
  - e. Scope of criminal involvement of suspects
  - f. Experience in martial arts
  - g. Other abilities/capacities to resist arrest



7. What are the weapons background or suspects?
  - a. Previous record of weapons use;
  - b. Pattern of being armed (e.g., when and how)
  - c. Military background
  - d. Access to weapons
  - e. Weapons registered to suspect(s)
  - f. Knowledge of use of explosives
8. Access to transportation
  - a. Registration and description of vehicles;
  - b. Locations of involved vehicles for purpose of securing them during warrant service.

## C. Preparation Considerations

1. Establish date and best time of warrant execution
2. Establish staging area
3. Establish briefing time and location.
4. Additional tactical considerations:
  - a. Prevention of escape
  - b. Number of personnel needed and assignments
  - c. Individual and team areas of responsibility
  - d. Route to location and deployment route
  - e. Security and communications at staging area
  - f. Equipment requirements
5. Can the location be secured upon completion of warrant service or will officers be needed to safeguard the location following service?
6. Should a surveillance team be left behind following service to identify other persons who might enter the location?
7. What is the best method of entry and order in which personnel should enter?
8. Will diversionary tactics be needed?

## D. Tools, Equipment, and Specialized Personnel Considerations

1. Based on the target location, suspects involved, and armament, should SWAT be used to perform the warrant service or assist? Special consideration in this matter should be given to:
  - a. Specialized equipment needed for entry (e.g., torches, Shotlock)
  - b. Whether the site is fortified, employs lookouts, booby traps, etc.
  - c. Whether the scope, complexity, and danger of service exceeds the training and experience of officers available
2. Raid jackets or other identification
3. Flashlights (even in daylight for darkened interiors)



4. Protective equipment
  - a. Soft body armor (mandatory)
  - b. Ballistic vests or shields
  - c. Visors or goggles
  - d. Gloves
5. First aid kits
6. Sledge hammer
7. Pry bars
8. Radios
  - a. Tactical frequency needed and available
  - b. Earpieces needed
  - c. Batteries charged
9. Additional handcuffs, flexcuffs, or other restraints?
10. CO2 fire extinguishers (for animal control and fires)?
11. Evidence bags, boxes, and related containers consistent with the evidentiary items that need to be collected?
12. Cameras and video recording equipment? Note:
  - a. Consideration should be given to taking pre- and post-warrant execution photographs of the target location. Photos may be taken by available team members or where necessary, by evidence technicians or related forensic personnel.
  - b. All photographs taken are departmental property and shall be retained in the lead detectives case folder and/or in evidence storage.
13. High-intensity lighting, as necessary
14. Canine teams
15. Ambulance or EMT standbys?
16. Fire department standby?
17. Air support
18. City, county, or state prosecutor

Every effort has been made by the IACP Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no model policy can meet all the needs of any given law enforcement agency. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives, and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes. Law enforcement administrators should be cautioned that each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered and should therefore consult their legal advisor before implementing any policy.

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# Concepts & Issues

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## Executing Search Warrants

### I. INTRODUCTION

#### A. Purpose of Document

This document was designed to accompany the Model Policy on Executing Search Warrants established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. It is anticipated that this material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

#### B. Background

The execution of search warrants is a task that has traditionally been a demanding and potentially dangerous activity for law enforcement officers. However, at no other time have those demands and risks been greater than they are today. In general, continued drug enforcement operations and the proclivity toward violence of those involved in this and related criminal activity, in particular, have made the execution of search warrants a much more involved and potentially hazardous assignment. Drug dealers today are more sophisticated and much better armed, and often deal their narcotics from heavily fortified locations using high-tech exterior surveillance. Searches that involve drug-manufacturing operations—particularly those involving methamphetamine production—also subject officers to a wide variety of other physical hazards from chemical contamination to combustion; and require a wide variety of safety precautions and specialized equipment for evidence collection, storage, and disposal. Whether drug related or not, searches require systematic application of contemporary procedural and tactical concepts, many of which are outlined in this document.

Some departments assign the task of executing high-risk warrants to their special weapons and tactics (SWAT) team while other departments (because of a lack of personnel or for other reasons) may utilize detectives or other uniformed personnel without regard to perceived risk or the requirements of the search. Neither of these approaches, however, may be suitable if sufficient care is not taken in analyzing the circumstances surrounding the offense and the suspects; the location at which the warrant will be served; and in planning an appropriate response. There are specific steps that must be taken in these and related regards if warrants are to be effectively and efficiently executed with a minimum risk to officers, innocent civilians, and suspects alike. These steps are examined throughout this paper.

This document is intended primarily for organizing, planning, and structuring a tactical operation for execution of a search warrant, which is essentially the most involved and often the most demanding of such operations. There is an extensive array of tactical considerations that come into play in these operations, such as the selection of appropriate

firearms in relationship to the location in question; proper procedures for the use of tactical equipment such as noise-flash diversionary devices (NFDDs), tear gas, battering and entry devices, and an array of other potential concerns. These hands-on tactical considerations are not within the scope of this document. Officers who are presently or who may, become involved in the execution of search warrants should receive the proper training in handling of this and other equipment as well as in dynamic entry tactics and techniques. Many of these skills are provided in SWAT training programs. While not all warrant service personnel must be SWAT certified, those that assist in high-risk operations at least should be familiar with basic procedures and tactics common to these assignments.

Law enforcement agencies that have limited personnel should rely on interjurisdictional arrangements to execute high-risk search warrants. They should never be conducted without adequate resources or training for the sake of expediency or in an uninformed show of bravado where a high-profile suspect may be involved.

Information in this document and the accompanying planning checklist can be used in all or in part to address particular search warrant execution requirements. Not all requirements will apply to every search warrant, but the array of details presented here are to be inclusive of the wide range of potential considerations that may come into play in a given situation. Departments should first have a process to evaluate and classify search warrants, so as to tailor search warrant execution procedures properly.

## II. PROCEDURES

### A. Obtaining a Search Warrant

Search warrants must be obtained from a judicial officer authorized by the law of the jurisdiction to issue such warrants. This is, typically, a justice of the peace, magistrate, lower court judge, or superior court judge. The law enforcement officer seeking the warrant should make certain of two things: (1) that the judicial official contacted has the authority to issue search warrants in that state and locality and (2) that the official has not made any errors on the face of the warrant or in the course of its issuance. If the issuing official makes a mistake in issuing the warrant, evidence seized under the warrant may in some instances<sup>1</sup> still be admissible, but the officers executing the warrant are not immune from law suits merely because a magistrate or judge has signed the warrant. Consequently, after a warrant is issued (but before it is executed) it should be scrutinized with great care to ensure that: (1) the correct form has been used, (2) all the blanks have been filled in, (3) the information set forth is accurate and legally sufficient, and (4) the warrant has been properly signed by the issuing magistrate or judge. It is the responsibility of the officer obtaining the warrant to make certain that the warrant is correct and has been issued properly.

The search warrant will not be valid unless the affidavit upon which it is based satisfies the legal requirements for such warrants. These requirements are dictated primarily by court decisions, but state statutes may also apply. Since the affidavit is the basis for the issuance of the warrant, and since the recitations in the affidavit will normally be duplicated in the warrant itself, it is essential that the affidavit language be correct, complete, and legally sufficient. Therefore, it is again, the responsibility of the officer seeking the warrant to ensure that the affidavit is correct and accurate, just like the warrant being issued.

### B. Requirements of a Valid Warrant

The Fourth Amendment's restrictions on searches and seizures were designed to prevent the use of the so-called general warrant, that is, a warrant that empowered its bearers to search anywhere, anytime, or for any reason. Today, a search warrant must be very specific and detailed if it is to receive the approval of the courts. A failure to provide sufficient detail in the affidavit, and the warrant itself, will render the warrant invalid or prevent its issuance entirely.

1. *Nature of the Offense.* The offense being investigated must be specified in the warrant. Although it is not normally necessary to identify a criminal code statute, the affidavit and the warrant must describe an actual

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<sup>1</sup> United States v. Leon, 468 U.S. 897 (1984).

criminal offense and must do so with sufficient specificity, so that anyone reading the warrant will clearly understand what crime is or what crimes are being investigated.

2. *Place to be Searched.* The place to be searched must be described with specificity; where possible, the actual street addresses should be used. Careful steps must be taken to ensure that the address provided is complete and accurate. A typographical error or bad information can invalidate a warrant and subject the executing officer to lawsuits. In addition to the street address, a brief description of the premises should be provided. This may help to avoid errors in the warrant's execution and help to ensure that the information provided is accurate. If a street address is not available, or if the premise is in a rural (or other area) where there is not a street address, the premises must be described in sufficient detail to make it clear what location is involved. The goal here is to provide enough detail that any officers executing the warrant, regardless of their prior knowledge of the case, can locate and identify the place in question.

Where multiple-unit premises are involved, such as apartment houses, the affidavit and the warrant must specify which unit is to be searched. If more than one unit is to be searched, each unit must be named, and probable cause must exist for each unit (see below). If common areas of the premises are to be searched (e.g., laundry rooms, storage areas, etc.), these should be designated as well.

A warrant to search a dwelling will, by implication, normally authorize a search of the curtilage of that dwelling. Depending upon the circumstances, this might include garages, outbuildings, and the like. However, since there is often some legal doubt as to what the curtilage of a particular dwelling includes, it is usually best to specify that the search is to extend to such structures and areas.

It is also important to note that warrants may be issued to search persons as well as places. When a warrant is issued for the search of a person, it must clearly identify the individual or individuals to be searched.

3. *Items Being Sought.* The items to be searched for must be specified in the affidavit and the warrant. There are four categories of items that may properly be the subject of a search warrant, they are: (1) fruits of a crime, (2) instrumentalities of a crime, (3) evidence of a crime, and (4) contraband. However, it is not sufficient merely to recite these categories in the affidavit and warrant. A detailed description of the items being sought should be given. Sometimes it is helpful to give both a general description of the type of item being sought and a detailed description of the precise items whose presence is suspected.

In addition, if the items being sought are large items of a type which could be disassembled into component parts, it may be wise to add at the end of the items' description the phrase "or component parts thereof," or words to the same effect. This is important because under the so-called elephant in a matchbox principle, even with a valid search warrant officers may not search areas of the premises that are too small to contain the items named in the warrant. A drawer or other area that is too small to contain, for example, a stolen M-16 rifle, might nevertheless be large enough to conceal some of the weapon's component parts. The use of the additional language clears the way for a more thorough search. As long as the warrant is valid, any items discovered which are not named in the warrant may usually still be seized if they are discovered unexpectedly during the search for the items named in the warrant. For example, if during a valid search for stolen weapons the executing officers unexpectedly found narcotics on the premises, the narcotics may be validly seized also, even though they are not named in the warrant.

4. *Probable Cause.* No warrant may be issued unless there is probable cause to believe that the named items will be found upon the named premises. The determination of the existence of probable cause is based upon the statements made in the affidavit. It is therefore essential that the affidavit expressly set forth sufficient information to enable the magistrate or judge to determine whether there is indeed probable cause for the search.

Affidavits based upon information provided by informants present a particular problem in this respect. A one time, the Supreme Court of the United States required that probable cause for the issuance of a warrant based

upon such information should be judged by a two-pronged test. To meet this test, the affidavit had to recite both the circumstances which led the informant to believe that the named items were to be found on the premises and, in addition, sufficient information to enable the magistrate to judge whether the informant was a reliable source of information.<sup>2</sup> More recently, the Supreme Court has declared that the U.S. Constitution does not require that the older two-pronged test be met if the “totality of the circumstances” is sufficient for a finding of probable cause.<sup>3</sup> However, it should be noted that some state courts have found that the constitutions of their individual states still mandate the use of the two-pronged test. Officers of such jurisdictions must comply with the requirements of their state constitutions, as enunciated in the decisions of the courts of those states.

### C. Organization and Responsibilities for Serving Warrants

Organization of personnel and resources to serve a search warrant is the responsibility of the case agent, that is, the officer who has primary responsibility for the criminal investigation and for warrant service. In high-risk warrant operations—as defined in the evaluation process discussed below—the case agent will work directly with the assigned tactical coordinator if deemed necessary. Normally, a tactical coordinator is also required whenever the warrant provides for a no-knock entry or the warrant is to be served at night. The tactical coordinator is the officer responsible for planning and supervising tactical operations to include dynamic entry and other tasks requiring trained SWAT officers.

Officers assigned to serve warrants require particular attention. Warrant service requires training and experience even in the realm of low-risk warrants in order to ensure that the warrant is served legally, safely, and effectively. Therefore, officers who are assigned to warrant service duty should be fully aware of acceptable procedures involved and should have received some prior training in warrant service planning and execution. The skills and experience of the officers involved should match the perceived demands and level of risk involved in any warrant service. Only officers trained in special tactics and operations should be permitted to serve warrants designated as high risk.

The case agent should be assigned the responsibility of preparing for warrant service in accordance with its nature and complexity. This includes coordinating efforts in the following types of areas:

- Gathering intelligence on the target site to include the structure, immediate area surrounding the structure, and surrounding neighborhood.
- Collecting pertinent information on the capabilities and backgrounds of suspects to include but not limited to criminal records, history of weapons usage, and potential for violence and resistance.
- Determining the best date and time for executing the warrant. The warrant in all cases should be served as soon as practicable as defined by state law.
- Determining equipment requirements, team personnel, and any specialized team requirements.
- Securing the search warrant and ensuring that it is thoroughly reviewed for accuracy, legal integrity, and completeness. Where state law permits no-knock entries, their need should be clearly outlined in the application for a warrant, as should the justification for nighttime service of a warrant.

### D. Classifying Search Warrants

All law enforcement agencies should establish criteria for classifying search warrants. Obviously, not all warrants are high risk and will not require the use of specialized tactics and equipment. Development of criteria for categorizing search warrants from low to high risk will reduce much of the guesswork involved in deciding the scope

<sup>2</sup> *Aguilar v. Texas*, 378 U.S. (1964). *Spinelli v. United States*, 393 U.S. 410 (1969).

<sup>3</sup> *Illinois v. Gates*, 462 U.S. 213 (1983).



of efforts involved in executing the search warrant. Many of the factors to be taken into consideration are included in the checklist contained at the end of this document.

There are several factors that dictate when special tactical measures should be employed in the execution of a search warrant. These include, in particular, the presence of a fortified location, such as is often found when confronting narcotic traffickers or gang members; known shooters, or anyone that has a history of armed violence; the presence of automatic weapons or other military style armament; and any other situation that suggests that violence may be encountered. These and related factors are generally known to officers and investigators prior to their application for a search warrant. If there are questions, however, about the potential for violence; the difficulty in gaining entrance to the location to be searched; or about any other risk factors in execution of a search warrant, officers should undertake a detailed evaluation process before designing the operation. The tactical coordinator should become involved in the planning process whenever a warrant calls for no-knock entry, nighttime entry, service involving drugs; subjects deemed particularly dangerous, or a warrant service location that is or is reasonably likely to be fortified or booby trapped.

*Evaluation Process.* The evaluation process for categorizing search warrants is designed to gather as much information about the location, its surroundings, and the individuals involved, as possible. This information will be essential in determining the type of entry that will be made, the number of officers required, and the types of armament and equipment necessary. Much of this information can be obtained through surveillance, and on occasions through confidential informants, or undercover officers.

If possible, interior diagrams of the location should be obtained or developed. Officers or investigators that have had access to the location in the past should be contacted for assistance. In the case of tract homes or other commonly styled facilities, floor plans may also be obtained by examination of proximate locations or through contact with a cooperative and trustworthy realtor.

Consideration should also be given to the type of area that surrounds the location. Are there underground parking facilities, an attached garage, or additional buildings on the property that will need to be secured and searched or is there direct access to vehicles that could pose an opportunity for escape?

Whenever possible, photographs should be taken of the location and the immediate surroundings. If available, a helicopter is ideal for taking photographs. Photographs can identify safe approach routes and provide views of areas obstructed by vegetation, fencing, walls, or other natural or manmade obstacles that could affect the approach or entry. Other useful photographs can be easily obtained from a surveillance location, or stationary or moving vehicle. For example, if it is a detached home, the officer should note the proximity of adjoining homes and should attempt to determine who occupies these locations. If occupants of those locations are sympathetic to or in conspiracy with suspects at the target site, they may serve to alert the suspects to either police surveillance or their approach to the location. On the other hand, if neighbors or others occupying locations in the immediate area are cooperative and trustworthy, they may allow authorities to utilize their locations briefly for purposes of surveillance. Video cameras are also very useful in this regard as they may cover more area in a shorter time frame and add greater continuity to photographic coverage.

The same type of information should be established for multiple family units with added emphasis on safety should it be necessary to use firearms. The volume and nature of pedestrian and vehicular traffic in the immediate area should be established at the time of day in which the warrant will be executed. This information will have obvious safety implications for the operation, dictate whether special consideration should be given to traffic control, and will also help to establish whether there is a need to deal with lookouts or other accomplices that may be operating in the area.

In conducting the surveillance, one should pay particular attention to the following:

- *Fences or Walls.* If these structures must be scaled to gain access to the location, the need for ladders or other means to scale these obstructions must be considered. Exterior standalone walls and fences may also



be rigged with additional obstructions on top or inside to thwart entry and they may be monitored by closed circuit television. The house and or the exterior perimeter may also be booby trapped (or be equipped with alarm or warning devices) making it important that as much information is obtained as possible about the perimeter.

- *Windows.* Windows can be excellent entry points particularly when considering that most suspects expect law enforcement officers to enter by the door. They may also pose opportunities for escape of suspects where, for example, they are located on upper levels adjoining rooftops of other buildings. However, as entry points, windows may be restrictive due to their limited size and distance from the ground. If windows are to be used, officers involved should be trained in breaking and raking, and entering techniques. It should be noted that in some fortified locations suspects have been known to replace window glass with Plexiglas and to install security bars or backing mesh on the interior of windows as well as install alarms.
- *Doors.* Doors should be assessed in terms of their locations and accessibility; their composition; locking or other security mechanisms; and the direction in which they open. Doors are better suited to entry but are also more predictable as entry points and consequently, more dangerous. The front door is normally the strongest in the dwelling and may be more difficult to breach than other exterior doors.
- *Occupants.* In addition to profiling the suspects in question, one should determine whether there are others in the facility that may require special consideration during the entry. This may include children, disabled persons, or the elderly who may not be directly involved as suspects. In addition, one should determine whether there are animals on the premises. Dogs may pose particular problems but can generally be controlled or subdued without injury by being sprayed with a chemical fire extinguisher.
- *Route to Location.* The surveillance should identify the best route for approaching the location keeping in mind the low-profile nature of the approach and the need to deploy personnel systematically at the site. All drivers should drive the pre-planned route in advance in order to ensure that they arrive at the proper location. Additionally, drivers should be familiar with alternative routes as well as the location of hospitals and fire stations within closest proximity to the route of travel and the warrant location in case of accident or injury.
- *Fortifications and Armament.* It is very important to gather as much information as possible about the location in terms of fortification of doors and windows. For example, as noted before, the officer should determine whenever possible, the types and number of door locks employed; whether doors or windows are reinforced from within; and whether there are any other fortifications or booby traps inside or outside the premises. This information is often difficult to obtain without the assistance of reliable informants or others who have had prior contact with the suspects inside the location.
- *Suspects.* The more that is known about the suspects the better, particularly the principal suspects. Pertinent information includes the number of suspects involved at the site and the hours when they are present; whether they are involved in narcotics or other types of crime; if they are involved with gangs; the availability of recent photos, criminal records, history of violence and resistance to arrest; their physical and mental conditions; and a description of vehicles that suspects use or that are seen at the search location. Of particular importance is the number and type of weapons available to the suspects; although the nature of the offenses in question may provide specific information on the types and caliber of weapons available to the suspects.

## E. Tactical Decisions

Once the foregoing types of information are available, concrete decisions can be made concerning the number of officers required and methods of entry that will be used. If the warrant is designated as low risk there will be fewer

tactical considerations to be resolved. However, in the case of high-risk search warrants a portion of that decision will be based on the types of equipment available to the entry team and their training in its use.

For example, one of the least destructive yet effective devices for use in entry operations is the NFDD. There are several varieties of this device, but all generate a loud detonation and blinding light that can be used for diversion as well as to confuse suspects within a location. Normally, NFDDs are used in hostage situations where the element of surprise is available to the law enforcement officer, but they can also be effectively employed as a tactical diversion when serving some high-risk warrants. Training is essential in their use as they are capable of causing injury and fire if not properly deployed. With this in mind, tactical officers should be aware of the target locations construction and whether the use of NFDDs would cause an undue risk of fire.

Several of the more useful pieces of equipment available for high-risk warrant service include hooks for pulling bars and mesh away from windows. Locking hooks can be used for bars without mesh backing while larger hooks are best for removing bars and mesh together. The hooks are attached and connected to a steel ring and cable that is connected to the pulling vehicle by a nylon rope at least 1¼ inches in diameter. As with other types of equipment, officers should practice with these devices in order to ensure effective and safe operation. Officers should stand clear of the pulling operation in particular, as the effects can result in serious injury or death.

One can normally breach unfortified, standard composition exterior doors by using battering devices commonly available to the police market. Some devices now available are designed for one-man use and are specially balanced, weighted, and designed for this purpose. They also allow officers to position themselves so that they will not be directly in front of the door, thus reducing exposure to possible gunfire from within.

Another device for gaining entry to highly fortified doors is the Avon shotgun round, also referred to as Shotlock. The Avon was originally designed to gain entry to the trunk of motor vehicles, particularly where explosives or other munitions are believed to be located. The Avon has also been demonstrated to be an effective means of breaching doors. Using a modified shotgun, the breacher places the tip of the barrel between the lock and the door jam and expends the round. Care must be taken in employing the round as it travels with sufficient velocity to cause serious injury or death. This is one of a number of similar devices on the market.<sup>4</sup>

Explosives are an excellent means of gaining entrance where exterior doors are reinforced or fortified. The use of an experienced ordinance, explosive, and demolition officer is essential in these situations. The risks of injury to officers or others in the location are such that this alternative should be used only as a last resort and where the type of suspects and location provide firm justification. When warranted, the use of explosives can provide rapid entry and generate some confusion among suspects in the location by virtue of the noise and concussion involved.

Once inside the location, it is not uncommon to find interior doors fortified with bars or other devices. In such cases, officers have sufficient time to utilize alternative entry devices such as a cutting torch for metal bars and similar hardware. However, one must be properly trained and outfitted with a protective vest and helmet, flameproof uniform

<sup>4</sup> See Adam Geibel, "The Shotgun Approach," Special Operations Technology Volume: 2, Issue: 3 (May 2004). For example, the article cites a number of rounds that have been developed for use by the military in urban settings that are now available to law enforcement. The article states:

*"In Afghanistan and Iraq, raids capturing suspected terrorists are often announced with a shotgun blast to the door lock of a suspect's house. Even the military police's special reactions teams have a breaching round requirement for hostage rescue, barricaded suspect and response force missions.*

*The recommended standoff distance for shotgun breaching is 0 to 2 inches, with 0 inches the preferred distance. Having the muzzle of the shotgun against the lock or hinge makes it less likely that the shotgun will move off target. Specialized "door-buster" rounds then disintegrate locks or hinges.... Sage International offers a selection of lead and non-toxic door breaching ammunition (known as Lockbusters) to go with their stand-off muzzle attachment.*

*A.L.S. Technologies manufactures the Door Breacher with a 17-gram (262 grain) frangible projectile made of iron dust and a ceramic binder, which produces 1,489 foot pounds of energy into an area .75 inches diameter. The company advises that the Door Breacher must never be fired with the muzzle of the shotgun less than 1 inch from the door lock, so muzzle attachments are necessary.*

*Several distributors offer the tactical knock-out (TKO) frangible slug, a translucent shell loaded with a compressed zinc slug, while Precision Made Cartridges (PMC) offers a round loaded with fine metal shot, bound in a special matrix that allows breakup into a fine powder upon impact. Tactical & Survival Specialties, Inc. (TSSI) offers the Royal Arms line of frangible 12-gauge breaching ammunition. The 12-gauge Lock and Hinge Avon Breaching Slug has a 260-grain compressed copper projectile and the Heavy Lock and Hinge Avon Breaching Slug 400 grains, while the All Lock and Hinge Clayvon Breaching Slug has a 365-grain clay and steel dust projectile. Remington also manufactures a frangible slug and frangible buckshot load that are made of compressed iron powder that are designed to disintegrate upon impact but defeat door locks and hinges."*

and gloves, eye protection, and access to a fire extinguisher. Because of the extra time required to gain access by this means, this is not well suited for gaining primary entry to a location.

Jurisdictions that are required to execute a relatively large number of high-risk search or arrest warrants may find it necessary to have other more sophisticated options at their disposal for conducting particularly dangerous and difficult entries. For example, the Los Angeles Police Department (LAPD) has an armored vehicle specially adapted with a ramming device for heavily fortified locations. It has also developed a mobile second floor entry device, adopted for and mounted on a standard pickup truck. These and related types of equipment are not widely available but are suggestive of the range of devices that have been and are being developed to assist in entry operations.

## F. Preparation for Execution of a Warrant

Once an operational plan has been developed it is necessary to draw the operational team together, make assignments, and review the operational plan. The case agent and tactical coordinator, where required, work cooperatively to ensure proper preparation, planning, and execution of the warrant. They should present the plan in detail to all members of the team in a warrant service briefing. Again, the extent of the briefing and pre-deployment planning will be dictated by the sophistication and level of risk involved in the operation. For purposes of the present discussion, it is assumed that a relatively high degree of risk exists. Actual field situations involving lesser risk will correspondingly require fewer personnel and incorporate fewer tactical decisions. The following are among the issues that should be covered:

- *Warrant.* Officers should be briefed on the nature of the warrant to be executed. Officers should pay particular attention to the types of substances or items subject to the search and likely places where they may be found.
- *Location.* The location should be described in detail from both exterior and interior perspectives. At a minimum, officers should be provided with details concerning the structure; its construction; its location in relation to surrounding buildings; and floor plan (if available). These details should be presented in the form of mockups, photos, and diagrams that identify entrances, exits, obstructions, fortifications, obstacles, garages and outlying buildings that are part of the curtilage, suspect vehicles, and other points of concern. Information on neighbors and exterior surroundings of the location should also be included as it may affect the operation.
- *Suspects.* The suspects should be described in detailed to include: scars, tattoos, clothing, criminal background, gang affiliations, and photographs provided as available. Detailed information should also be provided on the suspects' weapons and propensity for violence when confronted with arrest.
- *Equipment.* The availability of needed equipment to effectively execute the warrant is an essential consideration. If a SWAT team is involved, the tactical coordinator should be responsible for ensuring that all potential equipment needs are met. A list of the primary types of equipment that may be required should be included in the checklist but does not have to be a totally inclusive list of possible equipment requirements. When making equipment lists it is better to prepare for contingencies that are reasonably possible than to be faced with an equipment deficiency on site.
- *Contingency Plans.* Contingency plans should be established to cover potential situations that could thwart the execution of the operation. These include such eventualities as breakdowns in essential equipment; injuries or death to officers or others; escape of suspects; presence of snipers or armed resistance from inside the location; plans for emergency withdrawal; and encounters with dangerous substances such as explosives, booby traps, and chemicals, among many other possibilities.
- *Search Plan.* In order to conform with the limitations of the search warrant, to complete the search in a reasonable amount of time as required by law, and to maximize the likelihood of locating the items of the search; the search supervisor should develop a detailed search plan for the location. Once the target search location is secure, officers should be assigned specific responsibilities for conducting the search in the order in which these actions need to be taken and in relation to the layout of the house or other facility. For

example, officers should be assigned to photograph the entire search as it is being conducted and document the condition of the location prior to conducting the search in case claims for damage are made. Officers should be assigned in teams to search and others to collect, and mark both materials being sought and any other evidence or contraband in plain sight.

- *Tactical Plan.* It is essential that the plan of operation be fully explained and that each officer has an exact understanding of responsibilities in relationship to those of all other team members. If it is a joint agency task force operation, all officers participating in the warrant service must be present and identified as members of the warrant service team. Written assignments should be established around the plan and given to each officer.

A tactical plan is often in the form of a written schematic that allows officers to visualize their precise assignment in relationship to all others and specifies the officers' basic responsibilities, specialized equipment assignment, and vehicle assignment. In addition to its operational usefulness, this document is helpful for debriefing purposes and for use as a record of the operation.

A tactical plan does not need to be complicated. For example, all sides of a target location are numbered in parentheses and consecutively, beginning at the front of the house and moving clockwise. All officers are assigned to one of two entry teams, either the primary team (red) or the secondary team (blue). The blue team is used to gain entry only if the red team is thwarted in its attempt and the blue team is called to assist.

In a hypothetical scenario, the initial entry point is the front door with the rear door as a secondary option. Officers are assigned numbers. Officers 1, 2, and 3 are the primary entry team being used to breach the front door and appear on the schematic accordingly. Officers 4 and 5 are being used primarily to cover the entry. They will break and rake window designated S-2/2 simultaneously with the breaching of the front door and join the entry team inside the residence. A NFDD will also be deployed within the residence at the time of entry. Officers 8 and 9 are primarily used for containment of sides (3) and (4) to ensure that no suspect is able to escape from windows or doors on these sides. Officers 6 and 7 are designated as the secondary entry team assigned to breach the rear door and to freeze and cover anyone inside. Officer 10 is the supervisor in control of the overall operation.

This particular operational plan requires nine officers and one supervisor. The actual number of officers required on any given operation, however, will vary substantially depending on the findings of the evaluation stage of the operation. Under certain circumstances at the same location, the deployment of one or two officers on every window or door may be warranted. The basic criterion for a successful operation is to serve or execute the warrant without the need to resort to the use of deadly force. One of the best ways of accomplishing this objective is to provide law enforcement with overwhelming tactical capabilities and advantages. In some instances, the use of force cannot be avoided. But, with adequate planning and the application of sufficient law enforcement resources, one can reduce the risks of engaging in a deadly force confrontation.

As previously noted, it is important that the entire search warrant execution process be documented from beginning to end. This will greatly assist officers and the department in any latter examination of tactics and procedures for operational purposes as well as in defending against charges of unlawful, improper conduct, excessive force, unwarranted destruction of property, and illegal search techniques; among other potential claims that could damage the case and subject the department to civil litigation. Extensive still photography of the operation and the premises is helpful, however, audio and video recording provide a much more extensive and useful record and should be employed whenever possible.

## G. Execution

Even though a valid warrant has been issued, a search may be invalid if the warrant is executed improperly. The warrant must be executed in a timely manner, or the search will be invalid. There are two types of time limitations of

which the executing officers must be aware. Statutes may require that a warrant must be executed within a specified period following its issuance. Any search executed after the expiration of the stated period will be invalid.

The statutory limitation is the maximum period during which a warrant may be validly executed. In addition, the warrant must be executed within a reasonable time following its issuance, or it will become stale, and the search will be invalid even though it was executed before the expiration of any applicable statutory period. This is because probable cause is often of very limited duration. For example, while there may be probable cause to believe that the items being sought are on the premises now, within a few days, or even a few hours, this probable cause may no longer exist. It is therefore essential that the warrant be executed as soon as practicable after its issuance.

Under certain circumstances, it may be reasonable to delay execution of the warrant for a short period. For example, where a number of searches are to be conducted at the same time, it may be necessary to delay execution of a given warrant until the various searches can be coordinated; it is a matter of what is reasonable under the circumstances.

In many jurisdictions, anticipatory search warrants may be issued. An anticipatory warrant is sometimes issued when the items being sought are not on the premises at the time of issuance, but there is probable cause to believe that they will be found on the premises at a given time in the immediate future. Such warrants should, of course, be executed during the period when the presence of the items on the premises is expected.

1. *Time of Day.* Normally, searches should be conducted during daylight hours. This is especially true if a residence is involved. If a nighttime search is necessary, the reasons that make it necessary should be clearly articulated in the affidavit and, depending upon the law of the jurisdiction, it may be necessary for the warrant to specify that a nighttime entry is authorized.

Once the operational plan has been developed and officers involved are briefed on their assignments and the overall plan, the team is ready to execute the warrant. The objective of the tactical team is to secure the location and suspects within. In some cases, the tactical objective of securing the location is separated from that of the actual search that is turned over to investigative or other law enforcement personnel.

All weapons that will be used in the operation should be inspected and an inventory conducted of all equipment that is required to complete the mission. All personnel involved in the execution process should be clearly identifiable as law enforcement officers, and should be equipped with body armor of appropriate resistance rating. Identification of law enforcement personnel carries added importance when officers from several jurisdictions are working together in a task force operation. Transporting vehicles should be lined up in the sequence in which they will arrive at the location and officers should position themselves in the vehicles in the order they will assume at the location or the sequence in the operation at which they will be called upon. It is very important that a supervised rehearsal be conducted to ensure that all officers are familiar with their responsibilities and the equipment that they will utilize. For example, officers who are assigned to carry ladders or other specialized equipment need to ensure that they can easily exit vehicles without encumbering or obstructing the movement of other officers. As a precaution against possible sniping, the first officer outside the vehicle should be assigned the responsibility of covering all other members of the warrant team.

If an advance surveillance team is available at the target location, contact should be made prior to departure to ensure that the warrant can be served as planned and, where appropriate, that suspects are on site.

2. *Announcement.* Normally, the executing officers should enter the premises only after they have announced their presence and requested admission. No-knock entries should be conducted only where clearly justified by the circumstances and even then only in strict accordance with the law of the jurisdiction. Unless the search is based on a no-knock warrant, an easily identifiable police officer or team leader should knock and notify persons inside the search site (in a voice loud enough to be heard inside



the premises) that he or she is a police officer and has a search warrant for the premises and demands entry at once. Where possible, this announcement should be recorded or keyed in by a radio transmission to communications. Where a response is not obtained immediately, officers should delay forced entry for a period that is reasonable for an occupant to respond. Normally, this period need not exceed 15 to 20 seconds unless exigent circumstances dictate a shorter period.<sup>5</sup>

Even where it is necessary to use force to gain entry to the premises, the force employed should be the minimum reasonably necessary to accomplish the entry. Excessively violent or destructive entries may invalidate the subsequent search. Again, what is reasonable depends upon the circumstances.

Once the premises have been secured, the search may be turned over to the search team. If occupants are on hand, a copy of the search warrant should be given to them. If not available, it should be left in a conspicuous place. Prior to conducting the search, a photographic and videotape recording of the premises should be made. Search personnel may then follow the search plan detailing the order of operation and likely whereabouts of items to be searched for as defined in the warrant. An officer, designated in the search plan, should be responsible or have overall responsibility for ensuring the proper collection, preservation, and documentation of items seized in the search until they are transferred to the department's evidence custodian, laboratory, or other authority. Items specified in the warrant may be searched for in places where they may reasonably be expected to be located. Cash and currency taken as evidence should be verified by a supervisor and transported to a safe or other designated secure location.

3. *Conduct of the Search.* Like the entry, the search itself should also be conducted with minimum force. Excessive destruction of the premises or of personal belongings found on the premises should be avoided. A detailed search may reasonably require that some damage be done, but such damage should be limited to that absolutely necessary to carry out the search in a thorough and professional manner. Wanton destruction during the search may invalidate the search and lead to civil liability of the offending officers. There is normally no specific limit on the length of the search. The search may continue for whatever period of time is reasonably necessary in order for the search to be conducted properly and completely. This will depend upon the circumstances of the case. However, any search that continues for more than a few hours is likely to be scrutinized very closely by the court. Excessive prolongation of the search may result in exclusion of evidence.

Upon the conclusion of the search, the premises must be properly secured. If the entry has caused damage to doors, locks, or security devices, and the premises are to be left vacant after the search has terminated, appropriate measures must be taken to protect the premises and their contents. If damage occurs during the search operation, a report, accompanied by appropriate photographic documentation, should be prepared that detail the nature and extent of the damages. Photos should be taken of the damage whenever possible.

## H. Post-Search Requirements and Operational Critique

There are certain primary post-search legal requirements that should be observed. If items are taken from the dwelling, an itemized receipt should be provided to the resident or occupant, or in the absence of such persons, left in a conspicuous location at the site. Evidence seized must be transferred to the person or facility that will retain it

<sup>5</sup> United States v. Banks, 540 U.S. 31; 124 S. Ct. 521; 157 L. Ed. 2d 343; Decided December 2, 2003. In this case, the U.S. Supreme Court analyzed the standard of reasonableness in connection with the length of time police with a search warrant must wait before entering without permission in a felony case. The Court pointed out the facts known to the police at the time is what counts when judging a reasonable waiting time. Whether the occupants are in a section of the house where they cannot hear the announcement (in this case the suspect claimed he was in the shower) or is otherwise unable to hear the announcement or respond to it on time does not matter. In Banks, exigent circumstances were upheld because officers were searching for illegal narcotics that could easily be disposed of in a short period of time. In other cases, the same justification may not be valid where officers are searching for items that are not as easily disposed of (e.g., motor vehicle parts). The final analysis of what constitutes a reasonable delay depends on the totality of the circumstances but, according to the court, "need not be extensive" so as to facilitate escape of suspects, allow them to arm themselves or take other actions detrimental to police actions and purposes.

pending trial. The proper chain of custody must be maintained and documented, or the evidence may be rendered inadmissible. In addition, the jurisdiction may require that the warrant and other papers associated with the search be returned to the clerk of the court for that jurisdictional area. A failure to make a proper return will not normally cause the evidence to be inadmissible, but may lead to civil penalties or disciplinary action. Since states vary widely on this point, local law should be consulted and followed.

Immediately following the operation, it is important that the executing team assemble to formally critique the assignment. These operations can be highly valuable learning exercises if the necessary time is taken to identify areas that can be improved upon. The case agent and the tactical coordinator, when used, should conduct these debriefings and all participants should be required to attend.

Members of the team should begin with an examination of the overall operational plan and compare the anticipated or perceived operation with the actual way in which it unfolded. Any deficiencies in intelligence concerning the plan's development should be identified and means considered for rectifying any similar problems in the future. It is also important to identify any training or equipment needs and any problems with department policy or tactical procedures that may have become apparent in the operation and explore means toward filling these voids.



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