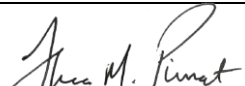


LEESBURG POLICE DEPARTMENT REGULATIONS AND GENERAL ORDERS MANUAL		
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The purpose of these procedures is intended to result in a fruitful search, which withstands the rigors of court, as well as to uphold the rights of citizens. Officers assigned the responsibility of an investigation involving a search warrant will be responsible for the proper execution of the warrant. Search warrants will be reviewed by the respective officer's immediate supervisor and when practical, the Commonwealth's Attorney. All officers shall assure the accuracy of the search warrant, conduct a briefing prior to the execution, ensure proper recording of all pertinent facts during the execution, and comply with all legal requirements relating to the search warrant.

I. Search Warrant Procedures

- A. The officer preparing the search warrant shall coordinate with the Criminal Investigations Section supervisor at the onset of the planning process to ensure that the search warrant does not interfere with other investigations and to receive all available criminal intelligence/officer safety information.
- B. In the absence of established exigencies, a search warrant issued by a judge or magistrate is required to search a person, place, or thing over which a person has a legitimate expectation of privacy.
- C. An officer having probable cause to believe that a crime has occurred or will occur in the future and that specific evidence pertaining to that crime is located at a specific place may obtain a search warrant from a magistrate or judge.
- D. The application for the search warrant will include a sworn affidavit (Form DC 338) detailing the officer's probable cause. Facts, real and demonstrable, must back up the allegations and assertions. Positive proof of an illegal endeavor and the location of incriminating evidence are not required, but rather a showing that there is a probability of criminal activity, and proof thereof in a specific location. The facts relied upon by the magistrate or judge must be contained explicitly in the affidavit.
- E. Information in the affidavit may include:
 1. Direct observations, personal knowledge, and analysis by the affiant
 2. Information from government or business records
 3. Information from other law enforcement officers
 4. Information from victims and witnesses
 5. Information from identified informants
 6. Information from confidential informants
 7. Information from anonymous sources.
- F. The affiant will evaluate the credibility of sources of information and address that credibility in the affidavit by corroborating and verifying the information.
- G. The affiant will evaluate the timeliness of the information and address that timeliness in the affidavit.
- H. In cases where the affiant is requesting an anticipatory search warrant the affiant will establish specific triggering events and address those events in the affidavit.
- I. The affidavit and search warrant will specifically describe the person, place, or thing to be searched. Physical descriptions of residences shall be as detailed as possible.
- J. The affidavit and search warrant will specifically describe the items to be seized.

K. Execution of the search warrant

1. All search warrants will be obtained and executed in accordance with Chapter 5, Search Warrants, of the Code of Virginia (§ 19.2-52, § 19.2-53, § 19.2-53.1, § 19.2-54, § 19.2-55, § 19.2-56, § 19.2-56.1, § 19.2-56.2, § 19.2-57, § 19.2-58, § 19.2-59, § 19.2-59.1, § 19.2-60, § 19.2-60.1)
2. The search warrant must be served within 15 days of issue or be returned to the magistrate's office.
3. The search warrant must be served forthwith, with reasonable dispatch and without undue delay.
4. Search warrants that include a residence and a person reasonably may be delayed until there is evidence that the subject person is on the premises.
5. When service of a search warrant is delayed, the executing officer must ensure that the probable cause is still valid before executing the warrant
6. Search warrants for any place of abode (physical place where one actually lives or has his home) shall require that a police officer be recognizable and identifiable as a uniformed law enforcement officer and provide audible notice of his authority and purpose reasonably designed to be heard by the occupants of such place to be searched prior to the execution of the search warrant.
 - Search warrants for any place of abode shall be executed by initial entry only in the daytime hours between 8AM and 5PM unless:
 - A judge or a magistrate, if a judge is not available, authorizes the execution of the search warrant for another time for good cause shown by facts presented in an affidavit.
 - Police officers seeking authorization to execute a search warrant outside of daytime hours, shall make reasonable efforts to first locate a judge prior to seeking authorization from a magistrate and document such reasonable efforts in an affidavit to the magistrate when seeking authorization.
 - Prior to the issuance of the search warrant if police officers lawfully entered and secured the place to be searched and remained at the place to be searched continuously.
7. Following entering and securing any place to be searched and prior to undertaking any search or seizure, the executing law enforcement officer shall give a copy of the search warrant and affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not present, to any occupant of the place to be searched.
8. If the place to be searched is unoccupied, the executing law-enforcement officer shall leave a copy of the search warrant and affidavit in a conspicuous place within or affixed to the place to be searched.
9. No police officer shall seek, execute, or participate in the execution of a “*no-knock*” search warrant. Entry and/or forced entry into an abode following a reasonable period of time and announcement allowing occupants to answer the door is permitted based on articulable facts, exigency, and the totality of circumstances at the time of execution.
10. Search warrants for any place of abode require that a police officer be recognizable and identifiable as a uniform police officer. For the purposes of this requirement, authorized uniforms will include:
 - LPD issued blue uniform and uniform trousers
 - ERT/T issued tactical uniform
 - Canine Handler issued uniform
 - Bicycle Officer issued uniformFor the purposes of this requirement, tactical vest, raid jackets, armbands, badges displayed on chains or belts worn with plain clothes do not satisfy the requirement of a uniformed officer's presence upon entry of a search warrant.
11. No other person is permitted to be present during or participate in the execution of a warrant to search a place except (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search. Media representatives are specifically prohibited from accompanying officers on the execution of a search warrant.

L. Scope of the search

1. Executing officers are entitled to search the entire named premises, including any closed containers, drawers, closets, etc. where they have probable cause to believe the objects of the search may be located.
2. Locked containers which could contain the objects of the search that cannot be opened on the premises may be seized from the scene and searched at another location.
3. Occupants of a residence may be detained at the scene for the duration of the search. Reasonable force may be used to effectuate the detention. Persons observed leaving the scene immediately prior to the execution may also be detained and recalled to the scene and detained there during the search. This detention does not include the right to search the persons of those occupants unless the search warrant authorizes the search of the occupants. A "Terry" patdown or frisk is only justified if there is reasonable suspicion that the subject may be armed and dangerous to the officers or other persons.
4. A search warrant for a dwelling authorizes a search of any occupants' automobiles found within the cartilage of the dwelling, even if the occupants are not named in the warrant.
5. The executing officers may seize any contraband or other evidence not named as an object of the search encountered in plain view during the lawful execution of the search warrant.
6. If, during the lawful execution of the search warrant, new probable cause develops that would justify searching for different objects, the executing officer shall obtain a new search warrant before searching beyond the scope of the original search warrant.

M. Seizure of evidence and contraband

1. All evidence or contraband seized during the execution of the search warrant will be inventoried and documented by supplemental report and listed on LPD Form 401 (Property Record). The items will be packaged and submitted to LPD Evidence and held for later examination, court display, or other disposition in accordance with LPD General Order 213 (Collection and Preservation of Evidence).
2. All items seized will be noted on the search warrant (Form DC339) back page. A copy of that completed search warrant will be provided to the occupant or left at the scene of the search.

N. The completed/executed search warrant will be filed in the Circuit Court of the Jurisdiction in which the warrant was served within three business days of execution.

O. The supervisor reviewing the execution of a search warrant may request assistance from the Leesburg Police Emergency Response Team (ERT/T). The ERT/T will be requested when circumstances are such that their special expertise is required to make a safe entry of the search location.

P. The supervisor and/or officer responsible for obtaining the search warrant shall conduct briefing prior to executing the warrant. The following factors shall be presented at the briefing:

1. Review of site characteristics;
2. Description of potential occupants and any associated dangers they may pose;
3. Description of items sought at the search site and any indication of their possible locations;
4. Assignment of responsibilities for members of the search team;
5. Review of facts of the case.

Q. Conduct Prior to Entry.

The supervisor and officer responsible for obtaining the search warrant shall take reasonable precautions to make certain that the premises listed in the warrant are the premises sought to be searched, and that the premises about to be entered are the premises listed on the warrant. The officer assigned the investigation should be alert for any change in circumstances that negates the reason for the search. If the supervisor or officer is not certain that the premises to be entered are the same as those listed in the warrant, or that the reason for the search no longer exists, no entry shall be made.

R. The search team shall position itself as circumstances dictate. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

S. Announcement of Authority and Purpose.

An officer, predetermined during the briefing, shall notify persons inside the search site of the team's presence, and shall announce, in a voice loud enough to be heard inside the search site, that they are police officers and that they have a warrant to search the premises, and that admission to the premises is demanded at once. The announcement of authority and purpose is required on all search warrant services. "No knock" search warrants are specifically prohibited under Virginia State Code § 19.2-56, and no police officer shall seek, execute, or participate in the execution of a no-knock search warrant.

When there is reasonable suspicion to believe that such announcement will cause jeopardy to the search team, or others, or that the items listed in the warrant could be destroyed, police officers are encouraged to explore alternative methods to separate the occupants from the site to be searched to ensure the safety of both the occupants and executing police officers.

T. Delay Following Announcement

The search team shall delay entry for a reasonable amount of time following the announcement, unless an occupant admits them to a site, or there is substantial indication that there is a willful delay in responding to the announcement.

U. Entry.

When possible, premises shall be entered in a nondestructive manner without the use of force.

1. Forced Entry.

The knock and announce requirement applies to all search warrant entries into an abode. Following a knock and announcement, the failure of an occupant to admit police officers after a reasonable opportunity is synonymous to a refusal and justifies forcible entry. Use of force includes the opening of a closed door, entry through an open door, or the use of a key to gain entry. Use of a ruse or trick at an abode for the purposes of making entry for the execution of a search warrant is prohibited.

2. Vacant Search Sites.

When entry into a vacant site is undertaken, the search team should seek entry with a key when possible. A copy of the search warrant, with affidavit attached, shall be placed in view at the site. Entry into a vacant search site is permissible only if one or more of the following circumstances exist:

- a. The occupants will not be returning to the premises for an extended period of time, if at all;
- b. The investigation will be hampered if the premises are not immediately searched;
- c. Executing the warrant at another time would cause substantial inconvenience and improperly waste personnel time.

3. Immediate Examination of Search Site.

The search site shall be secured. Each room of the premises shall be immediately examined for persons that may interfere with the warrant's execution.

V. Persons within Premises.

1. Permissible Search of Persons.

Mere presence at a search site is not a factor, which gives sufficient reason to search a person within the premises. For the search to be valid, the officer must articulate facts or circumstances within the search warrant affidavit, which provide probable cause to support the action taken. The affidavit must identify the persons to be searched by name and the basis for such search.

2. Arrests.

Probable cause to arrest a person at the search site may arise during the execution of a search warrant. In that event, a search incidental to that arrest, and independent of the warrant, may be conducted.

3. Permissible Frisk of Persons.

Any person within the premises at the time the search warrant is executed or any person that voluntarily enters the premises after the search has commenced may be frisked, if

the officer reasonably suspects that such person has a concealed weapon or dangerous instrument. Mere presence at the search site is not a sufficient reason to frisk a person within the premises. In order for the frisk to be proper, the officer must be able to articulate facts or circumstances, which provide reasonable suspicion to support the action taken.

4. Restricting Movement of Persons.

Restrictions may be placed on the movement of any person at the search site. This restriction is essential to prevent interference with the search and to safeguard the search team and other persons involved. The restriction shall be limited to the time needed to assure security.

W. Seizure of Items Inadvertently Found.

If contraband items are found, but not listed in the search warrant, they may be seized when the item could logically be seen within the scope of the warrant, in an area controlled by the search warrant.

X. Post Search Action.

a. Damaged Property.

If damage occurs during entry, the supervisor in charge at the scene shall evaluate the need to assure the protection of the search site until repairs can be made. If it is in the Department's best interests, the supervisor shall assign personnel to protect the property until the person in control of the property is able to assure security. The supervisor shall additionally ensure that any property damage is fully documented and photographed in police reports documenting the search warrant service.

b. Warrant Return.

The responsible officer shall ensure the return of the warrant to the issuing authority as soon as practical, and within the 72-hour time limit required by law. The officer shall swear under oath to a copy of the list of items seized, and such fact shall be stated in the inventory sheet prior to the return to the Court. If nothing is seized, a statement to that effect shall be filed with the Clerk of the Circuit Court of the jurisdiction where the search occurred within 72 hours.

c. Return of Property.

When non-contraband items seized during the execution of a search warrant are no longer needed for prosecution, they may be returned to the owner, under authority of the Commonwealth's Attorney.

d. Prior to the completion of the tour of duty during which the search warrant is executed the patrol supervisor shall provide a brief of all relevant information regarding the warrant service. This should include a brief narrative of the incident, a list of any contraband found, and identities of all persons encountered during the search. This brief shall be submitted to the duty officer, and the CIS commander.