

3.05-2

**DAYTON POLICE DEPARTMENT
GENERAL ORDER
SEARCH WARRANTS**



KAMRAN AFZAL – DIRECTOR AND CHIEF OF POLICE

Rev. 03/26

POLICY STATEMENT

This policy is established to safeguard the constitutional rights of citizens and provide guidelines to ensure the personal safety of all involved during the preparation and service of search warrants. All search warrants will be obtained and served by police personnel in accordance with the procedure established in this policy and the applicable Ohio Rules of Criminal Procedure, Rule 41.

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I. CONSENT TO SEARCH

See General Order 3.03-3 Authority to Arrest, Section V. (Forcible Entry Procedures for Residential Arrests) and Section VI. (Warrantless Forcible Entry Procedures)

II. PROCEDURE FOR OBTAINING A SEARCH WARRANT

- A. Conduct a thorough investigation into the complaint or information that will convince a disinterested party (Judge) that probable cause exists to justify a search.
- B. Consult with a supervisor to review the investigation leading to the request for a search warrant.
- C. Prepare an Affidavit and Search Warrant as outlined in this policy.
- D. Present the completed Affidavit and Search Warrant to a supervisor for approval. Once approved by the supervisor the warrant will be present to a Lieutenant for approval.
- E. After approval from a Lieutenant, consult the City Prosecutor or the City Attorney for approval (regardless of the hour of day or night).
- F. After approval from the City Prosecutor or City Attorney, present the Affidavit and Search Warrant to a Municipal Court Judge or Common Pleas Court Judge (in the absence of a Municipal Court Judge), and testify under oath that the information contained in the affidavit is true and accurate.
- G. **AFTER THE APPROVAL AND SIGNATURE OF THE JUDGE, DO NOT MAKE CORRECTIONS, DELETIONS OR ADDITIONS TO THE AFFIDAVIT OR SEARCH WARRANT.**
- H. The OCSS – ezWarrant electronic search warrant portal will be the only authorized method to author a search warrant within our agency, barring an outage in the system. This portal will not be used for Non-Consensual search warrants as they require an in-camera review. Detectives and officers submitting an electronic search warrant via the ezWarrant system after normal business hours, especially late at night, should not contact the judge before or after entering the warrant. The ezWarrant system automatically sends text alerts to the judge, notifying them that a warrant is ready for review. Calling the judge may interrupt their efforts to review the warrant remotely on their phone. After reviewing the warrant, the judge will likely call with any questions or clarifications.



III. PROCEDURE FOR APPLYING FOR A SEARCH WARRANT

A. SEARCH WARRANT FORM (Appendix A.)

1. "A" Target of the search warrant.

Examples:

- a. Person - John Doe, WM-40, etc.
- b. Building - 335 W. Third St.
- c. Vehicle - 1997 Ford Escort, License No. ABC 1234

2. "B" Name of the Chief of Police

3. "C" Affiant name and title. (Officer/Detective seeking warrant)

"I." Those offenses, which by virtue of the facts set forth in the Affidavit you have probable cause to believe, have occurred. List by crime title, ORC or RCGO.

"II." That property, which by virtue of facts set forth in the Affidavit, you have probable cause to believe is contained within a place to be searched. List ONLY THAT PROPERTY whose existence is supported by the probable cause in the Affidavit.

"III.a." Describe the person in as much detail as possible from the information available.

In describing a person, include the name, personal identifiers (i.e. sex, race, height, weight, age, DOB, SSN, address, tattoos, scars, etc.).

"III.b." Describe the place to be searched in sufficient detail to allow anyone who is not familiar with the location, to easily identify it. Places to be searched should be described by street and number, type of construction, number of stories, and any outstanding individual markings.

4. "D." The Judge, after reviewing and determining reasonable cause exists for a nighttime warrant, will initial the space indicated. There is no need for the Judge to initial if it is a daytime warrant.

Indicate daytime or nighttime

Daytime hours - 0700 hours to 2000 hours.

Nighttime hours - 2000 hours to 0700 hours

5. "E." Date and time the Judge signs the warrant. (DO NOT TYPE THE DATE & TIME IN THIS AREA, THE JUDGE WILL COMPLETE THIS)

6. "F" The Judge's signature.

B. AFFIDAVIT FOR SEARCH WARRANT (Appendix B.)

1. "A" See A under SEARCH WARRANT FORM section.

2. "B" Affiant's name.

"I." Copy verbatim from "I" under SEARCH WARRANT FORM section.

"II." Copy verbatim from "II" under SEARCH WARRANT FORM section.

"III." Copy verbatim from "III" under SEARCH WARRANT FORM section. (The affidavit does not list subsections "a and b" but it is exactly the same person or place described.).

"IV." This is the portion of the Affidavit where the affiant reveals the facts to the Judge that has allowed the affiant to describe the particular persons, places, things, and property listed in the search warrant. This section must convince the Judge evaluating the warrant that PROBABLE CAUSE exists to issue the warrant for the facts set forth. If additional space is



needed, use a piece of white typing paper for further information. DO NOT TYPE ON THE BACK OF THE WARRANT.

3. Use of Informant Information

- a. When using informant information as a basis for probable cause, the information must be "firsthand" or credible information.
 - b. If the informant tells an officer that certain property is located at a given address, it must be stated "how and when" in reference to this property. This information should appear in No. "IV." of the affidavit. If the exact date and time would substantially compromise the identity of the informant (and the affiant wishes his/her identity to remain confidential), it may be substituted with a more general statement, such as, "between May 1 and May 4, 2012, my informant ...etc." Use only a two to three day variance. The affiant must be ready, if called upon by proper authority, to reveal the exact date/time alluded to in the Affidavit.
 - c. The informant must be shown to be reliable. This is generally done by virtue of the fact that the informant has provided information in the past to the affiant, which has resulted in "X" number of arrests, recovered property, and criminal intelligence, etc.
 - d. A paragraph must be included in the Affidavit supporting the reliability of the informant.
 - e. The affiant must be prepared to "back-up" any claims of reliability stated. Generally, any available corroboration of an informant's information should be included.
 - f. The information provided cannot be stated as reliable if an officer receives information from a citizen for the first time. In this instance, the officer will have to pursue and substantiate the information through independent investigation.
4. "C" This is where the affiant states their reason for a nighttime search. (i.e. evidence may be destroyed, for the safety of the officers, etc.)
5. "D" Signature of the affiant **in the presence of the Judge.**
6. "E" Date and time to be filled in by the Judge.
7. "F" Judge's signature. DO NOT ALTER AFFIDAVIT AFTER JUDGE'S SIGNATURE.

C. INVENTORY AND RECEIPT FORM (Appendix C.)

1. "A" See A under SEARCH WARRANT FORM section.
2. "B" This section contains a complete list of all property seized. It is advisable to note, in addition to the property taken, the initials of the officer making the recovery and specific location where the property was found.
3. "C" Person from whom property is being taken.
4. "D" Signature of officer filling out inventory.
5. "E" To be signed by an officer on the scene other than the affiant or officer taking property.
6. "F" Signature of officer filling out inventory.
7. "G" Signature of officer filling out inventory.
8. "H " To be signed by Clerk or other notary.

D. RETURN OF SEARCH WARRANT FORM (Appendix D.)

1. A Search Warrant issued by the proper authority must be returned regardless of whether it has been served or not. Explanation for filling in the blanks on the form is as follows:



a. Return Of Search Warrant Form when Warrant Has Been Served.

"A" Date the Warrant was signed.

"B" Time the Warrant was signed by the Judge.

"C" Date Warrant served.

"D" Initials of the affiant (ONLY IF SERVED)

"E" Name of the person to whom a copy of the Warrant was given.

"F" Initials of the affiant (ONLY IF SERVED)

"G" Address of location searched or where a copy of the Warrant was left.

"H" Initials of the affiant if there was no property taken from the search.

"I" Initials of the affiant here if property was taken.

"J" Initials of the affiant here if a copy of the inventory was given to a person.

"K" Initials of the affiant if no person was there and a copy was left at the target location.

"L" Initials of the affiant if the Warrant was returned NOT SERVED.

"M" Date Warrant returned, NOT date served.

"N" Name of affiant and sign above it.

IV. PROCEDURE FOR SERVICE OF SEARCH WARRANT

- A. All search warrants served by members of the Dayton Police Department will be done with adequate personnel to ensure the safety of all involved.
1. Case officers/detectives are to compile any and all intelligence information, diagrams, and any briefing documents needed to fully brief and inform all personnel assigned to the service of any search warrant.
 2. A sergeant will be supplied with and apprised of all information leading to the application of the search warrant.
 3. Search warrant service will be coordinated and led by a supervisor.
 4. The Bureau Commander or Watch Commander is responsible for evaluating the information to determine if the S.W.A.T. (Special Weapons and Tactics) Team should be requested to assist in the entry for the search warrant. Refer to General Order 2.01-3 SWAT/HNT Section VIII. High Risk Warrant Service for evaluation criteria and non-consensual warrant service.
 5. Any non-consensual (No Knock) search warrant will be approved by an Assistant Chief of Police and will be served by S.W.A.T. or a commensurately trained team. The waiver of the statutory precondition for non-consensual entry must be obtained based upon Ohio Revised Code 2933.231.
- B. Search Warrant preparation and service will include the following:
1. A pre-service briefing **will** be conducted, which will include a written operational plan, for **all** personnel assigned to the service of the search warrant.
 - a. The briefing is the responsibility of the case detective, with the assistance of supervisors involved in the warrant service.
 - b. Commanders or supervisors involved in the service of the search warrant will ensure that all personnel that compromise the entry team, have been properly trained on search warrant entry.
 - c. All personnel involved in the search warrant service will wear their issued ballistic vest, ballistic helmet, eye protection, gloves (where applicable) and a clearly identifiable warrant service uniform.
 - d. The search warrant commander and supervisor will ensure the entry teams' warrant service uniform is clearly identifiable as law enforcement. In any case, if no uniform exists, and forced entry is anticipated, then the standard Class B or Class C uniform will be worn.
 - e. Those detectives who are assigned to federal task forces (i.e. DEA, FBI, ATF, US Marshal, HSI) will wear either the currently approved search warrant uniform provided by: the federal agency, the



Special Investigations Bureau, the Violent Crimes Bureau, or the standard Class B or Class C uniform.

2. Diagrams, photos, intelligence and any information pertinent to the location or suspects involved will be discussed at the briefing.
3. Supervision
 - a. A lieutenant is required to be on scene for all search warrants served and led by Dayton Police Department personnel of occupied structures that are not already secured due to exigent circumstances.
 - b. The presence of a lieutenant may not be necessary in some circumstances (i.e. warrants on storage lockers, safe deposit boxes, parcel post packages, vehicles already in the custody of the police, etc.). After a lieutenant is apprised of a search warrant, they will have the discretion to assign a sergeant to the supervisory duties involving that search.
4. At least two **uniformed** officers will be present at all search warrant structures. One officer will be placed at the front and one officer will be placed at the rear. If the warrant is served by a specialized unit (i.e. SWAT, Special Investigations Bureau, etc.), the approved specialized unit uniform of the members of the search warrant service entry team will satisfy this requirement.
5. RDC will be notified prior to the service of a Warrant and a "Restriction" requested on the channel agreed upon to use. RDC will also be requested to monitor the channel.
6. A uniformed officer will be immediately and clearly visible upon initial entrance into the target location and all officers entering that location will wear protective vests. If the warrant is served by a specialized unit (i.e. SWAT, Special Investigations Bureau, etc.), the approved specialized unit uniform of the members of the search warrant service entry team will satisfy this requirement.
7. All plainclothes officers will wear police identification jackets or shirts that have "POLICE" on the front and back. If circumstances of the specific case investigation require, or as required by division procedure, ballistic helmets will be worn during entry into the target location.
8. All subjects in the search warrant location will be ordered down onto the floor and maintained there until the scene is secured. (Obvious exceptions are pregnant females, infants, etc.). They will then be searched and placed in one secured area until they are arrested or released. If higher risk case specific circumstances are involved, such as warrant services conducted by specialized units (i.e. SWAT, Special Investigations Bureau, etc.), subjects will be either removed from the residence or maintained in the residence during entry, based upon the method of warrant service employed. Subjects will be detained in handcuffs when deemed necessary.
9. One officer/detective will be designated as the evidence/inventory officer.
10. Processing the evidence for submission to the property room and laboratory will be completed as outlined in General Order 1.06-1, Property Room, Evidence, and Impounded Property. For large evidence seizures, members of other investigative units that assisted on entry/search will help process the evidence.
 - a. At no time will property inside the residence be collected that is not documented in the 4 corners of the search warrant unless one of the following exceptions exist.
 - The item is a dangerous ordnance as defined by the State of Ohio O.R.C. Items identified as a dangerous ordnance, such as IEDs, commercial fireworks, military ordnance, etc. will be referred to the Bomb Squad for render-safe procedures or disposal.
 - The item presents an immediate or substantial risk to police personnel or the surrounding community.
 - The item is an animal which shows signs of neglect or is not secured.
 - The item is evidence in a crime not documented in the search warrant but found upon search of the location.



11. All property seized pursuant to a search warrant is the property of the Department and/or subject to legal disposition as outlined by law and must be properly documented and secured in the Property Room. No officer, employee, or individual shall collect, retain, or display any such property for personal use, decoration, or display purposes. Any violations of this policy may result in disciplinary action, up to and including termination, and potential legal consequences.
12. During the search, officers/detectives will be designated as search officers and take the recovered property to the evidence officer, who will mark, tag and place in the property room all evidence acquired in the search.
13. One officer/detective will be designated as the evidence/inventory photographer. Photographs will be taken of the exterior and interior before the search commences and exit photographs of the interior will be taken after the search has concluded prior to leaving the scene.
14. Before entering target locations, the officers must clearly knock and announce themselves as police officers serving a search warrant. If force is necessary, only that which is needed for entrance, tactical advantage and evidence search will be permitted,
 - a. An exception to knock and announce is made for a non-consensual search warrant.
15. **THREE DAY RULE** - The three-day rule means the Warrant is valid for three days after it is signed, not including:
 - the day it is signed,
 - weekends, or
 - Federal and/or State designated holidays.
16. All search warrants to be served outside the City of Dayton jurisdictional boundaries must be completed on an **APPROPRIATE COUNTY SEARCH WARRANT FORM AND SIGNED BY A JUDGE HAVING JURISDICTION OVER THAT LOCATION.**
17. Prior to leaving the scene of a search warrant, a copy of the warrant (not the affidavit) and inventory must be left at the scene, unless ordered otherwise by the court or if the search warrant is going to be sealed.

VII. OUTSIDE AGENCY REQUESTS FOR SEARCH WARRANT SERVICE INSIDE THE CITY OF DAYTON

- A. When agencies other than the Dayton Police Department request search warrant service that would take place inside of the City's borders, whether related to narcotics or not, the request should be routed to the Special Investigations Bureau Commander for review.
 1. This portion of policy does not apply to Dayton Police officers also assigned as Task Force Officers with the DEA and FBI (ex. Safe Streets Task Force, Joint Terrorism Task Force, etc.)



Appendix A.

MATHIAS H. HECK, JR.
Montgomery County Prosecutor

SEARCH WARRANT

IN THE MATTER OF SEARCH OF **A**

STATE OF OHIO, MONTGOMERY COUNTY, SS:

TO **B** and all other law enforcement officers:

WHEREAS, there appeared personally before me one **C** and swore to the facts set forth in an Affidavit on file with the Court in this matter.

WHEREAS, I find from said Affidavit that there is probable cause to believe:

I. That in the CITY/VILLAGE/TOWNSHIP of _____, Montgomery County, Ohio, the following criminal offense(s) have occurred:

(Charges & ORC Sections)

II. That the following described items of property are connected with the commission of said offense(s):

(Property)

III. That the said items of property are concealed either:

a. upon the person(s) of:

(Name and describe person)

b. and/or at the following place(s):

(Describe building or vehicle)

NOW, THEREFORE, you are hereby COMMANDED, in the name of the State of Ohio, with necessary and proper assistance, within three days, to enter into the place or places described in Paragraph III (b) above, and there diligently search for the property described in Paragraph II above. I find that there is reasonable cause to justify and hereby authorize execution of this Warrant during the **D** time. Within the territorial jurisdiction of this Court, you are authorized to search the person(s) described in Paragraph III (a) above for items of property described in Paragraph II above. Of this Warrant make due return to the undersigned or Clerk of Courts, accompanied by an inventory of any property seized.

All property seized pursuant to this Warrant shall be forthwith delivered into the custody of the Police Department Evidence Custodian to be held as evidence or until further Order of this Court.

The facts upon which the affiant relies and bases his/her belief that said items of property and things are so unlawfully concealed are contained in Paragraph IV of the affidavit which is filed in support of this Warrant and is incorporated herein.

 E
DATE/TIME

 F
JUDGE



Appendix B.

**AFFIDAVIT
(For Search Warrant)**

IN THE MATTER OF SEARCH OF: A

STATE OF OHIO, MONTGOMERY COUNTY, SS:

Before me, the undersigned Judge, personally appeared B (affiant), who being first duly cautioned and sworn on oath, deposes and says:

- I. That in the CITY/VILLAGE/TOWNSHIP of _____, Montgomery County, Ohio, the criminal offense(s) as listed in Paragraph "I" of the Search Warrant in this matter have occurred.
- II. That Affiant requests the issuance of a Search Warrant for the items of property listed in Paragraph "II" of the Search Warrant in this matter.
- III. That the said items of property are concealed upon the person(s) described and/or the place(s) described in Paragraph "III" of the Search Warrant in this matter.
- IV. That the facts upon which the Affiant bases said beliefs are:

(Narrative)

Based upon the above facts and beliefs, Affiant requests that a Warrant be issued to the proper police authority authorizing a personal search of the person(s) above described for the items and things named, and for a search of the described places and things for said items of property; and, if said items of property, or any part thereof, are found in the places or in the things described, or upon the person(s) described, authority is requested to seize said items of property which may be found and to seize the described person(s) in unlawful possession of or in unlawful control of said items of property.

 C Affiant says there is no urgent necessity for a night time search.

Affiant says there is an urgent necessity for said search and seizures to be made in night time to prevent the destruction and concealment of evidence and for the further reason:

 D
AFFIANT

Sworn to before me and subscribed in my presence by _____
 E on this _____ day of _____, 20____ at _____ AM/PM.

 F
JUDGE



Appendix C.

MATHIAS H. HECK, JR.
Montgomery County Prosecutor

INVENTORY AND RECEIPT

IN THE MATTER OF APPLICATION FOR A SEARCH WARRANT FOR A

On _____, 20____, received from _____
or seized from _____ the following property:

B

Witness:

C

(Person from whom or from whose premises
property taken - not mandatory)

D

(Officer taking property)

E

(Applicant for Warrant, (if present), or Other Witness)

ACKNOWLEDGEMENT

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

F _____, the above officer taking property, being duly sworn, says that the information set forth in the foregoing Inventory and Receipt is true.

G

(Officer taking property)

H

Notary Public/Deputy Clerk of Courts



Appendix D.

MATHIAS H. HECK, JR.
Montgomery County Prosecutor

RETURN

On A _____, 20____, at B _____M., I received the attached Search Warrant and

A. C _____ **WARRANT SERVED:** On _____, 20____

D _____ I gave to E _____

the person upon whom or on whose place upon which
the Search Warrant was executed, a copy of this Warrant.

F _____ I left at G _____,
the place where the search was made, a copy of
this Warrant.

Further:

H _____ No property was taken.

I _____ Property was taken as shown on the attached Inventory and Receipt.

J _____ I gave a copy of the Inventory and Receipt to the person indicated on that form.

K _____ I left a copy of the Inventory and Receipt at the place indicated on that form.

B. L _____ **WARRANT NOT SERVED.** I am returning this Warrant without executing the same.

Dated: M _____, 20____

N _____
Law Enforcement Officer