

Search Warrants

615.1 PURPOSE AND SCOPE

As a general rule, searches require a search warrant. There are exceptions to the general rule, wherein a search warrant is not required as a prerequisite to conducting a search:

1. Administrative,
2. Community caretaking,
3. Consent,
4. Emergency aid,
5. Exigent circumstances,
6. Hot pursuit,
7. Incident to arrest,
8. Probation searches, or
9. Protective sweeps.

In order to search without a warrant, officers must comply with the requirements for an exception as currently set down by the courts. This policy sets forth the guidelines to assist officers with applying for and serving a search warrant.

615.2 POLICY

It is the policy of this Department to provide guidelines for the execution of search warrants that protect the constitutional rights of community members, provide for a high degree of safety for all involved and ensure that searches are conducted with a high level of professionalism.

615.3 DEFINITIONS

Administrative Warrant: A warrant that is served in a police-controlled environment (e.g. police precinct, vehicle processing room, etc.). Examples include bank records, cell phone data, unoccupied vehicles, and electronic devices in police control.

Non-Administrative Warrant: A warrant or warrant/probable cause apprehension that is operationally served in the field. This includes, but is not limited to

- locations that may be occupied, and
- locations where forced entry is possible, and
- It is unknown if persons present are armed.

Though higher risk than an administrative warrant, it does not rise to the level of a high-risk warrant.

High-Risk Warrant: A non-administrative warrant or warrant/probable cause apprehension that is characterized by known or suspected hazards and risks (i.e. armed or potentially armed suspect(s) where there is a likelihood of resistance) to such a degree that the service of which poses a

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significant threat to the safety of others, or there are articulable facts which indicate service is outside the training and/or capabilities of the involved officers.

Level of risk will be determined by **Policy 616.6** - Processing of Operational Plan/Risk Assessment form

615.4 SEARCH WARRANT APPLICATION

Application for a search warrant may be made by any police officer. Search warrants and affidavits will normally be written by the officer requesting the warrant. Warrant preparation will be coordinated with the appropriate investigating unit.

Search warrants are only issued upon a finding of probable cause to believe that an offense has or will be committed. The probable cause is based upon the officer's personal knowledge and/or hearsay information from another officer, a named citizen or undisclosed informant. The probable cause is relayed to the magistrate through use of an affidavit. The affidavit should:

1. Contain a clear and distinct description of the place(s) to be searched and the item(s) to be seized.
2. Provide facts and circumstances which provide probable cause for the search. This includes:
 - A. Information justifying the search; and
 - B. Information leading to the belief that the object(s) of the search are in the places or the possession of the subject(s) to be searched.
3. Affiant/officer's background and experience.
4. Execution details.
 - A. In the event that known officer safety risks present a situation where special warrant execution procedures will be needed (e.g., nighttime execution of the warrant), officers should specifically articulate such circumstances and request the magistrate to expressly authorize law enforcement to use such procedures in the execution of the warrant.
5. All search warrants related to the search of a structure or vehicle should contain the below verbiage:

During the execution of this search warrant, officers may encounter property which may need to be altered, trespassed, moved, damaged, destroyed, or otherwise manipulated in an effort to safely access the premises, avoid detection, preserve evidence, apprehend suspects, and/or otherwise further the investigation. Officers are authorized to interact with property on/near the premises in this manner when no other reasonable means of accomplishing these goals is presented.

This verbiage should be used when circumstances dictate, by placing it at the end of the search warrant, above the signature line area as noted below:

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"And if you find same, or any part thereof, then bring same and items of identification to identify the residents and residence thereof before the Honorable District Court Judge _____ to be disposed of according to law."

Before issuing the warrant, the magistrate will need to be satisfied that probable cause exists. The magistrate may examine the affiant or any witnesses under oath.

When hearsay information of an undisclosed confidential informant is relied upon to establish probable cause, that information must be independently corroborated (i.e., information demonstrating past reliability of the informant or by personal observation and corroboration). When using information of an informant, members will comply with the Department policy related to confidential informants.

When information from a confidential informant is relied upon to establish probable cause, any information corroborating or refuting the credibility of a confidential informant, to include crimes of dishonesty, shall be disclosed.

615.5 SEARCH WARRANT APPROVAL

Administrative Warrants may be reviewed and served at the discretion of a unit supervisor.

Non-Administrative Warrants shall be reviewed, prior to submission to a magistrate, by a unit supervisor and, prior to service, by a lieutenant or higher.

In order for VPD personnel to serve a warrant outside the City of Vancouver, the warrant must be associated with criminal activity inside the City of Vancouver.

Exceptions:

- Regional Units
- A commander or their designee may approve exceptions on a case-by-case basis.

615.6 OPERATIONAL PLAN/RISK ASSESSMENT

All non-administrative and high-risk warrants require an Operational Plan/Risk Assessment form to be completed prior to execution.

The Operational Plan/Risk Assessment form is listed on SharePoint. Follow this file directory:

SharePoint~Departments~PoliceDepartment~VPDNET~Forms~Service:SearchWarrants-Sis~Risk Assessment Form

The supervisor responsible for the search warrant execution is responsible for the proper completion of the Operational Plan/Risk Assessment form and any other necessary planning to ensure the safe and effective service of the warrant. The supervisor will ensure that the SWAT commander, or designee, is consulted, as required by the completed Operational Plan/Risk Assessment form. This will assist the evaluation for need of Special Weapons and Tactics (SWAT) and/or Crisis Negotiations Team (CNT) in the execution of the warrant.

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If SWAT/CNT are needed or requested, the SWAT commander, or designee, will coordinate with SWAT and the originating division/unit commander or designee, to ensure all tactical considerations have been discussed. The original completed Operational Plan/Risk Assessment form, if not forwarded to SWAT as a request for their services, will be retained by the supervisor of the originating unit.

Members will comply with Policy 616 - Planned Operations Risk Assessment when completing the Planned Operations Risk Assessment.

615.7 EXECUTION OF THE WARRANT

Search warrants generally state the period for which they are valid. All warrants, if served, must be done within the stated period in the search warrant.

Before entering any premises, the executing member will knock and give appropriate notice of identity, authority, and purpose to the person to be searched or to the person in apparent control of the premises to be searched. If the member is not admitted after such notification, force may be used to enter the premises. Strict compliance with the knock and announce rule is required unless, by exception, a Division Commander pre-approves a "no-knock" entry. If it is determined that no one is at the residence, members have the authority to forcibly enter (RCW 10.31.040). Before undertaking any search or seizure pursuant to the warrant, the executing member will, as soon as reasonable:

1. Give a copy of the warrant (not the affidavit) to the person to be searched, or to the person in apparent control of the premises to be searched.
2. Leave a copy of the warrant in a readily apparent location at the premises if the premises are unoccupied, or there is no one in apparent control.

Only a police officer may serve a search warrant. In the course of executing a search warrant, the member may take reasonable precautions to ensure that property will not be removed while the search is being conducted and to prevent interference with the search. Members have the same power and authority in all respects to break open any door or window and to use all necessary and reasonable means to overcome any forcible resistance as they do in executing or serving a warrant of arrest. In securing the premises to be searched, the member may seek out all persons on the premises and bring them to a controlled location for observation during the search.

Members of the media will not be allowed to enter private property without the consent of the property owner or individual in charge of the involved property.

615.8 LIMITATIONS OF WARRANTS

The scope of searches pursuant to search warrants is limited to the premises specified in the warrant and only for those items specified in the warrant to be seized.

1. The search must be terminated once all items specified in the warrant are discovered.
2. Unless the warrant(s) authorize the search of a named person(s), a search warrant for a residence or other premises does not permit a search of all the persons present

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during the time of the search. If there is probable cause to believe that persons on the premises are carrying or concealing items which reasonably could be the objects of the search warrant, those persons may be detained and searched to the extent necessary to determine whether they are concealing items covered by the warrant.

A member may remain on the premises in a search warrant only during the time reasonably necessary to conduct the search for the property described in the warrant.

615.9 POST EXECUTION RESPONSIBILITIES

Upon execution of the search warrant, the member will:

1. Leave a copy of the warrant and property receipt(s) specifying, in detail, the property taken. This copy will be left with the person from whom the property was taken, or in whose possession the property is found. In the absence of any person, the copy of the warrant/receipt(s) will be left in a conspicuous place.
2. Secure the location if the owner or other responsible party is unavailable.
3. File all affidavits, search warrants and returns, regardless of any associated cases, with the appropriate court. Members will file the search warrant return and receipts as soon as reasonably possible, but generally no later than 3 business days, after the execution of the warrant.