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SUBJECT			AMENDS	
State Search Warrant Procedures				
REFERENCE	RESCINDS			
RSMo 542	PI 15-07			

I. INTRODUCTION

This directive provides guidelines and procedures for obtaining and executing search warrants by Department members.

II. TERMINOLOGY

- A. **Affidavit** - A sworn statement verified by oath or affirmation.
- B. **Contraband** - Items or property that are illegal to possess or transport.
- C. **Fruits of Crime** - The results of a criminal act. It is the material objects acquired in consequence of commission of a crime, i.e., stolen money.
- D. **Instruments of Crime** - Anything commonly used for criminal purposes and possessed by a person under circumstances not manifestly appropriate for lawful uses it may have, e.g., weapon, burglary tools, conducted electrical weapon (CEW).
- E. **Search Warrant** - Written order of a court commanding the search of a person, place, or thing and the seizure, or photographing or copying, of property found thereon or therein (RSMo 542.266).

III. GUIDELINES

- A. A search warrant may be issued by a court upon the showing of probable cause and upon meeting certain other conditions.
- *B. Prior to the execution of a search warrant, all related persons and locations will be deconflicted. For further information, refer to the current directive entitled, "SafeTNet Deconfliction."
- *C. Obtaining a search warrant requires an investigative sworn member or prosecuting attorney to submit to court a written application including an affidavit. The affidavit must describe with particularity the place to be searched to include:
 1. The complete address to include the county and state, i.e., 111 Main Street, Kansas City, Missouri, 64106, Jackson County, and a physical description of the premises, and

2. Items to be searched for, and
 3. Probable cause for the warrant, and if necessary
 - *4. The justification for the request if applying for a “No Knock” warrant.
- D. Warrant applications and affidavits prepared by an investigative sworn member must be reviewed by a prosecuting attorney prior to submission to a court.
1. If the court believes the requirements for a warrant have been met, a judge will sign the warrant.
 2. A search warrant should be obtained in the county where the search is to occur.

IV. TABLE OF ANNEXES

This directive is arranged in annexes for easy reference.

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Adopted by the Board of Police Commissioners this 28th day of June 2022.

Mark C. Tolbert
President

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SEARCH WARRANT APPLICATION PROCESS

- A. A search warrant allows a sworn member to search for and seize, photograph, copy, or video record any property, article, material, or substance, which constitutes evidence of the commission of a criminal offense (RSMo 542.271).
 - 1. This includes fruits of a crime, instruments of a crime, and other evidence, i.e., items relevant to a crime.
 - 2. A search warrant also allows a sworn member to search for kidnapped persons, persons with valid outstanding felony warrants, or a deceased human fetus or corpse, or part thereof.
- B. For guidelines regarding federal law violations for which a search warrant may be obtained, the investigative element supervisor will contact the appropriate federal agency for assistance.
- *C. Investigative sworn members assigned to the Investigations Bureau or the Special Operations Division, are responsible for obtaining and coordinating the execution of all search warrants. The warrant must be reviewed by a supervisor, or designee, when practical.
- *D. Investigative sworn members will send the affidavit to the respective tactical team supervisor prior to sending it to the prosecutor and judge to make sure all legal descriptions are correct.
 - *1. Investigative sworn members should also provide all relevant background and criminal history to the tactical team supervisor to assist them in developing the appropriate tactical plan which best suits the information given.
 - *2. Any other information to provide history on the address and suspect to include criminal records checks, active warrants, calls-for-service, and available reports that outlines the information and/or intelligence for tactical teams to reduce risk and liability.
- *E. The appropriate prosecuting attorney or Office of the General Counsel (OGC) should be consulted for clarification on any legal matters relative to obtaining and executing search warrants prior to the execution of the warrant.

- *F. When a sworn member believes probable cause exists for the application of a search warrant, consent must be obtained from an element supervisor/commander before contacting the applicable investigating element.
1. If a search is warranted, investigative sworn members assigned to the Investigations Bureau, Special Operations Division, or a Property Crimes Section will prepare the following:
 - a. Application for Search Warrant, State Form OSCA-CR20.
 - b. Search Warrant, State Form OSCA-CR160.
 2. The forms will include the appropriate supporting data and be presented to the appropriate prosecutor's office for signature.
 3. Investigative sworn members are to submit all search warrant documentation as dictated by each appropriate county's process, e.g., electronic or paper version.
 4. Investigative sworn members should refer to the "Jackson County Electronic Search Warrant User Guide" located on the Department Intranet for instructions on how to complete an electronic search warrant.

PRE-EXECUTION OF THE SEARCH WARRANT

- A. The commander of the element responsible for the execution of the warrant will assign a supervisor/commander, Sworn Member-in-Charge, to be in charge of all matters pertaining to the execution of the warrant, i.e., coordinating with other unit commanders for the use of uniformed sworn members, Crime Scene Investigators, or HazMat personnel.

- B. The Sworn Member-in-Charge will:
 - 1. Ensure the address and description of the place to be searched, set forth on the investigative sworn member's application and affidavit presented to the court matches the physical address and description of the place to be searched.
 - 2. Ensure the warrant is signed by a judge. Unsigned warrants are *per se* invalid and should not be executed.
 - 3. Ensure that the address of the location to be searched, as well as the name of the owner or occupants, is checked through the computer for wants or warrants.
 - 4. Ensure that "Safetynet Deconfections" are conducted to determine if there are case linkages or on-going investigations.
 - 5. Request the Communications Unit supervisor to assist in contacting appropriate supervisors/commanders, if needed.
 - 6. [REDACTED]
 - a. [REDACTED]
 - b. [REDACTED]
 - 7. Determine the number of sworn/non-sworn members required to effectively execute the warrant.
 - a. When applicable, uniformed/tactical sworn members will be used for making entry during the execution of search warrants.
 - b. Not every search warrant will require the presence of uniformed/tactical entry personnel, e.g., warrants executed on a safe deposit box or an impounded vehicle.

- *8. Conduct a thorough briefing prior to the execution of the search warrant. The briefing should include all perimeter sworn members and provide all available information, descriptions, assignments, and instructions that may affect the execution.
9. Identify problem areas where the public could be exposed to danger. Tactical plan development and implementation should minimize or eliminate danger to the public, e.g., stopping traffic, evacuation of nearby residences.
10. Ensure that all necessary equipment and supplies needed to safely execute the search warrant are assembled, e.g., flashlights, protective vests, report forms, property tags.
11. Prior to initiating efforts to gain entry at the location to be searched, notify the appropriate zone Communications Unit personnel, via telephone, of the location and time that the warrant is to be executed and the radio frequency to be used. If there is a possibility of forced entry, a "Special Operations" radio frequency may be requested through dispatch to reduce outside radio interference.

EXECUTION OF THE SEARCH WARRANT

- A. A Search Warrant must be executed as soon as practical and shall expire if it is not executed and returned within 10 days after the date of the making of the application. The Application of Search Warrant, State Form OSCA-CR20, and the Search Warrant, State Form OSCA-CR160, will be returned to the judge who issued the warrant. (RSMo 542.276.8 & 9)
- B. Expired warrants are *per se* invalid and should not be executed.
- C. Searches for, and seizures of property will be conducted in a manner which is in compliance with all federal and state legal requirements to ensure the admissibility of evidence in a court of law.
- D. Searches pursuant to warrants will be conducted in a reasonable manner and may be made at night if conducting it during the daytime is not practicable (RSMo 542.291.1).

***Exceptions:** [REDACTED]

- E. Knock and Announce
 - 1. The U.S. Supreme Court ruled that search warrant and arrest warrant entries must be preceded by a knock and an announcement.
 - a. There are no “blanket exceptions” to the rule.
 - *b. [REDACTED]
 - c. The only exception is where the entry personnel can reasonably establish one of the three factors listed below.
 - (1) Circumstances exist that present a threat of physical violence.
 - (2) When a prisoner escapes and retreats to their dwelling.
 - (3) Reasonable belief that evidence is being or may be destroyed.
 - *2. Any report involving a forced entry or search warrant entry will indicate that entry personnel knocked and announced prior to entry.

- *a. The report should indicate approximately how long entry personnel waited from the time they knocked until they forced entry.
 - *b. Entry personnel should be prepared to fully justify the amount of time in which they waited.
- *F. Prior to obtaining a judges authorization for a “No-Knock” entry warrant, the Department member applying for the “No-Knock” warrant **must** get approval from their Bureau Commander or higher.
 - 1. When a warrant application establishes that some exigent circumstance exists or that knocking would be futile, a judge may authorize a “No-Knock” entry at the time the warrant is issued.
 - 2. If circumstances support a reasonable suspicion of some exigent circumstance when the sworn members arrive at the door, they may dispense with the “Knock and Announce” requirement.
- *G. After entry has been gained, entry personnel will conduct a protective sweep to ensure that all subjects present are brought under control. These entry personnel will maintain control of all subjects present and provide security at any entrances/exits to eliminate any unauthorized subjects from entering/leaving the scene.
 - *1. The detention of the occupants of a premise during the execution of a search warrant is authorized based on the substantial justification of:
 - a. Preventing flight in the event incriminating evidence is found.
 - b. Minimizing the risk of harm to the sworn members present or other subjects.
 - c. Facilitating the orderly completion of the search.
 - *2. Entry personnel may generally ask questions of a detained subject during an execution of a search warrant without the need for reasonable suspicion.
- *H. All subjects located or encountered during the execution of a search warrant will be documented in the search warrant.
- I. If, during the execution of a search warrant, and prior to finding the property listed thereon, other evidence or contraband is located, such property may be seized if one of the following conditions is present:

1. The property is either in plain view from a location where the investigative/entry personnel has a legal right to be, or in a place where the investigative/tactical sworn member(s) may reasonably search for the items listed in the search warrant.
 2. Items are immediately recognizable as contraband, e.g., illegal weapons, illicit drugs.
- J. When investigative/entry personnel serving a search warrant seize any evidence that is related to a crime but is not normally investigated by their element of assignment, the supervisor/commander of the appropriate investigative element will be contacted from the scene.
- K. When executing a search warrant, be aware of the “Exclusionary Rule.”
1. The rule that any evidence secured by illegal means and in bad faith cannot be introduced in a criminal trial.
 2. A technical error in a search warrant made in good faith will not cause exclusion of the evidence obtained under that warrant.
- L. Upon rendering the area safe, entry personnel will notify investigative sworn members that they may enter and conduct their investigation.
- M. Investigative sworn/non-sworn members **will not** enter the area until so notified. Police identification cards and/or badges will be worn and displayed in plain view by all non-uniformed investigative sworn/non-sworn members during the execution of a search warrant.
- N. A copy of both, the Search Warrant, State Form OSCA-CR160, the Return/Receipt for Search Warrant, Form 264 P.D., and if applicable, the Return/Receipt for Search Warrant Supplemental, Form 264A P.D., will be left with the person in charge of the premise.
- O. If no person is present, copies of the above forms will be left in plain view, at the site of the search (RSMo 542.291.4).
- P. Prior to relinquishing custody of the scene, investigative/entry personnel members will ensure that all executing tasks have been completed.
- Q. If the premise was unoccupied at the time of executing the warrant, or is to be left unoccupied at the conclusion of executing the warrant, entry personnel will make reasonable efforts to secure the premise.

- R. All arrests will be handled in accordance with the current directives entitled, "Arrest Guidelines/Procedures" and "Arrest Procedures - Possession of Controlled Substance."

POST-EXECUTION OF THE SEARCH WARRANT

- A. Investigative/entry personnel should carefully document in detail any exigent circumstances which were present at the time of the execution of the search warrant in any report completed following the execution of the warrant.
- B. The Return/Receipt for Search Warrant, Form 264 P.D., of seized property shall be delivered to the prosecutor's office in the county where the property was seized within two (2) working days of the execution of the warrant (RSMo 542.291) to include copies of the following:
 - 1. Application of Search Warrant, State Form OSCA-CR20.
 - 2. Search Warrant, State Form OSCA-CR160.
 - 3. If applicable, Return/Receipt for Search Warrant Supplemental, Form 264A.
- C. A search and subsequent searches of the contents of any property, article, material, or substance listed on a search warrant may be conducted.
 - 1. Any time during the execution of the warrant, while still on the scene.
 - 2. After the item has been seized and removed from the scene, subject to the continued existence of probable cause to search the item(s).
 - 3. After the time for delivering the warrant, return, and receipt to the issuing judge has expired, subject to the continued existence of probable cause to search the item(s).
- D. A Return/Receipt for Search Warrant, Form 264 P.D., and if applicable, the Return/Receipt for Search Warrant Supplemental, Form 264A, shall be delivered to the issuing judge upon final completion of any search, which concludes after the expiration of time, for delivering the original return and receipt, e.g., electronic data storage devices or computer media searches (RSMo 542.276).
- E. All property recovered will be processed in accordance with current Department procedures.

REQUESTS TO EXECUTE SEARCH WARRANTS BY OUTSIDE AGENCIES

- A. When an outside agency requests assistance in executing a search warrant within Kansas City, Missouri, every effort will be made to assist them in the timely execution of the warrant.
- B. Requests for assistance will be referred to the appropriate element that would investigate the type of crime that has resulted in the search warrant being issued.
 - 1. During hours when a representative of the appropriate element is not available, the agency will be referred to the Patrol Bureau Duty-Officer who will contact a supervisor/commander from the appropriate element.
 - 2. The supervisor/commander will determine if the circumstances warrant the deployment of personnel required to effectively execute the warrant.
- C. When it is determined that the search warrant will be executed, established procedures listed in Annex's B, C, and D, of this directive, will apply. Any exceptions to the procedures of this directive, involving the execution of outside agencies search warrants will be approved by the appropriate bureau commander.
- D. An official from the outside agency will be present at the location, but will not participate in the execution of the search warrant.
- E. All property recovered and suspects arrested will be processed in accordance with current Department procedures.