

## FREDERICK POLICE DEPARTMENT GENERAL ORDER

**Section 7:** Force, Detention, and Arrest  
**Topic:** SEARCH AND SEIZURE WARRANTS  
**Approved:** 03/06/17  
**Review:** Annually in September by Criminal Investigations Division Commander  
**Supersedes:** G.O. dated 01/01/08

**Order Number:** 743  
**Issued by:** Chief of Police

### **.01 PURPOSE:**

To specify procedures for obtaining and executing search and seizure warrants

### **.02 CROSS-REF:**

G.O. [330](#), "Damage to Non-Police Property"  
G.O. [742](#), "Warrantless Search and Seizure"  
See also all General Orders in Section 7, "Force, Detention and Arrest"  
CALEA STANDARDS 74.3.1, 74.3.2  
Form SOD-025 [Risk Assessment for Critical Incident and Warrant Service](#)  
Form CID-001 [Application for Search and Seizure Warrant](#)  
Form CID-002 [Search and Seizure Warrant](#)  
Form CID-003 [Search and Seizure Return](#)

### **.03 DISCUSSION:**

The Fourth Amendment to the United States Constitution protects against "unreasonable" searches and seizures. The element of proof necessary to obtain a search and seizure warrant is "probable cause." In addition, the issuance, contents, time of search, disposition of property seized and the sealing of the affidavit are enumerated in the Maryland Code: CRIMINAL PROCEDURE : [TITLE 1. DEFINITIONS; GENERAL PROVISIONS : SUBTITLE 2. GENERAL PROVISIONS](#) : § 1-203. Search warrants (CP: 1-203), as amended and revised.

### **.04 POLICY:**

The Frederick Police Department will exercise appropriate care to respect personal and property rights by following carefully-defined procedures in obtaining and executing all search and seizure warrants, as well as adhering to the restrictions placed on searches conducted pursuant to the valid exceptions to the warrant requirement.

### **.05 DEFINITIONS:**

**AFFIANT:** An officer who swears under oath that the information contained in an affidavit (statement of probable cause) is true.

**APPLICATION AND AFFIDAVIT (CID-001):** A document stating facts and information that constitutes probable cause to believe that certain evidence is contained within a certain location that is sworn to before a Judge.

**EVIDENCE INVENTORY FORM (CID-004):** A document which is used to record the seizure of specific items pursuant to the execution of a Search and Seizure Warrant.

**"KNOCK AND ANNOUNCE" SEARCH AND SEIZURE WARRANT ENTRY:** A search and seizure warrant service during which officers, prior to making entry, knock, identify themselves, and await a response before making entry into the premises.

**"NO-KNOCK" SEARCH AND SEIZURE WARRANT ENTRY:** A search and seizure warrant service

during which officers enter the premises without giving prior notice to the occupants of the premises.

**RECORDER:** An officer who is designated to document and handle all items seized pursuant to a Search and Seizure Warrant. The Recorder will also file the Report and Return of Search and Seizure Warrant with the issuing Court.

**REPORT AND RETURN OF SEARCH AND SEIZURE WARRANT (CID-003):** A document that lists all items seized by the Recorder pursuant to a Search and Seizure Warrant. This document must be filed with the issuing court within ten (10) business days of service and must be sworn to before the judge to whom the document is presented.

**SEARCH AND SEIZURE WARRANT (CID-002):** An order in writing from a court of record, issued by a judge, which permits a peace officer to search a particular place (or person) for crime-related evidence and seize evidence. It must be based upon probable cause.

**.10 GUIDELINES FOR OBTAINING SEARCH AND SEIZURE WARRANT:**

1. Maryland Code CP: 1-203, which is entitled "Search Warrants," generally governs the "issuance; contents; time of search, etc.; disposition of property seized; sealing affidavit," and other issues relevant to search and seizure warrants. Additionally, this statute authorizes police officers who are in possession of a search and seizure warrant to search a place or person and seize evidence that is relevant to the enumerated violations of law that are under investigation. The Application and Affidavit for each search and seizure warrant must include facts sufficient to:
  - A. Identify with reasonable particularity, the violations of Maryland law that are currently under investigation;
  - B. Identify or describe, with reasonable particularity, the premises, person, place or thing to be searched;
  - C. Identify or describe, with reasonable particularity, the locations within the premises to be searched and the items to be seized; and,
  - D. Enumerate the facts established during the course of the investigation to serve as the probable cause justifying the issuance of the search and seizure warrant.
2. Officers who, during the course of an investigation anticipate the need to obtain a search and seizure warrant, as enumerated herein, shall complete the Application and Affidavit for Search and Seizure Warrant (Form CID-001), as well as the Search and Seizure Warrant (Form CID-002) itself. The format for these documents may be located in the share ("R") drive. Those documents shall then be reviewed by a supervisor. Upon receiving supervisory approval, an original and two (2) copies will be presented to a judge.

**.15 GUIDELINES FOR SERVICE OF SEARCH AND SEIZURE WARRANT/DOCUMENTATION OF EVIDENCE:**

1. After the Search and Seizure Warrant has been issued, the Affiant will assure that the original Application and Affidavit remains in the custody of the issuing court. The original and two (2) copies of the Search and Seizure Warrant, as well as the two (2) copies of the Application and Affidavit will be retained by the investigating officer.
2. Ultimately, the original Search and Seizure Warrant will be filed with the issuing court after it has been served and proper documentation of service has been recorded on said original. This normally is done when filing the Report and Return of Search and Seizure Warrant with

the issuing court. The Search and Seizure Warrant must be served within **fifteen (15) days** (date of issuance included). After the fifteenth (15<sup>th</sup>) day, the search and seizure warrant automatically becomes null and void, and is to be returned to the issuing court. One copy of the Search and Seizure Warrant, as well as the Application and Affidavit will be made a part of the investigative file. The other copy of the Search and Seizure Warrant, as well as the Application and Affidavit will be delivered to the custodian of the premises at the time of service. If the premises are not occupied at the time of service, the Search and Seizure Warrant, as well as Application and Affidavit will be posted at the premises in a conspicuous location.

3. The Recorder will seize all evidence and enumerate each seized item on the Evidence Inventory Form (CID-004). Prior to securing from the premises, the Recorder will present a copy of the Evidence Inventory Form to the custodian of the premises and attempt to obtain a signature from the custodian, acknowledging that the Evidence Inventory Form is accurate. If no custodian is present, a copy of the Evidence Inventory Form will be attached to the other documentation that has been posted at the premises in a conspicuous location.
4. The Recorder will complete a Report and Return of Search and Seizure Warrant (CID-003), which notifies the Court of the items that were seized pursuant to the Search and Seizure Warrant. This Report and Return will be presented to the issuing Court within **ten (10) business days** of the execution of the Search and Seizure Warrant. Presented to the issuing Court at this time also will be the original Search and Seizure Warrant on which documentation of service has been recorded.

#### **.20 SERVICE OF SEARCH AND SEIZURE WARRANTS - PREMISES:**

1. The execution of search and seizure warrants expose officers to inherent dangers unlike any other operation. Because of this, attention to detail is of utmost importance to ensure officer safety. It is the policy of the Frederick Police Department to execute a search and seizure warrant in accordance with all State and Local Laws. All General Orders and Standard Operating Procedures must be adhered to prior to, during, and after the execution of the search and seizure warrant.
2. Prior to the execution of a search and seizure warrant for a premise, the Commander of the Division conducting the investigation will designate the supervisor of the operation. In all instances where a search and seizure warrant is being served at a premise, a supervisor will be in charge of the overall operation.
3. The investigative supervisor of the search and seizure warrant will cause the completion of the "Risk Assessment for Critical Incidents and Warrant Service" form SOD-025 prior to the execution of the warrant. All known and suspected information regarding the suspects and residence of the pending search warrant should be assigned the corresponding point value on the "Risk Assessment for Critical Incidents and Warrant Services" form. Upon completion of the form, the supervisor is to determine the operation risk level. The operation risk level can fall into one of three categories:
  - A. Risk Level 1 (Low) 0-20 points;
  - B. Risk Level 2 (Moderate) 21-34 points;
  - C. Risk Level 3 (High) 35 points or more;

After completing the form and if the risk level is low (1), it is up to the investigation supervisor to decide if the Special Response Team (SRT) should be used to execute the search and

seizure warrant. If the risk level is moderate (2) or high (3), the investigation supervisor will contact the SRT team leader or commander. All "Risk Assessment" forms will be emailed to the SRT commander and team leader, regardless of the risk level, for proper tracking of search and seizure warrants and record keeping.

4. Should the investigative supervisor determine SRT will not be utilized in the execution of the search and seizure warrant, all provisions and notifications contained in this order must be followed. The supervisor will compose the written operation plan. The operation plan will include the following:
  - A. Pre-raid surveillance;
  - B. Entry;
  - C. Perimeter security;
  - D. Prisoner security;
  - E. Searching;
  - F. Recording;
  - G. Prisoner transport
5. All written operation plans for the service of search and seizure warrants at a premise will be reviewed and approved by the Commander of the Division conducting the investigation or his designee.
6. Due to the complex nature of tactical breaching, the use of SRT personnel should be considered when a forced entry is required. However, circumstances may exist that would not require the need for SRT personnel to make a forced entry.
7. Supervisors must consider officer safety and proper execution of the search and seizure warrant as the primary factors when determining if SRT should be utilized for the service.
8. The investigative supervisor shall contact the SRT team leader to schedule the search and seizure warrant for execution. A copy of the completed "Risk Assessment" form must be provided to SRT in addition to the following information:
  - A. Address of premise to be searched;
  - B. Type of premise to be searched (single family, apartment, townhouse, etc.);
  - C. Type of warrant (knock and announce or no knock);
  - D. Operational Briefing Packet;
    - (1) Photographs of the target location;
    - (2) Photographs of the suspects/occupants;
    - (3) Criminal history print out of suspects/occupants;

- (4) Diagram of residence if known;
  - (5) Resident history print out;
  - (6) Real Property print out;
- E. Special considerations;
- (1) Number of suspects/occupants;
  - (2) Criminal histories of suspects/occupants;
  - (3) Type of CDS involved;
  - (4) Known or possible weapons;
  - (5) Children/elderly;
  - (6) Animals;
  - (7) Any other considerations (cameras, barricaded doors, fences, gates, etc.).
9. The supervisor and SRT team leader should agree on a date/time for the execution and set a briefing location.
10. The supervisor should notify the SRT team leader of any special considerations that the investigating officer becomes aware of prior to the briefing so he can ensure there are sufficient personnel to execute the warrant safely.
11. Surveillance should be started and maintained on the target location at least 60 minutes prior to the briefing for the search and seizure warrant. Pre-raid surveillance should include enough personnel to always have a visual on the target location and be able to follow the suspect or a vehicle leaving the location.

**.25 NOTIFICATIONS:**

- 1. Prior to briefing the operation order of the planned execution of any search and seizure warrant at a premise, the investigating supervisor will cause a command text notification be sent. The text will include "P/O Warrant" followed by the location, investigative unit, supervisor, and estimated time of service. If the SRT is serving the warrant, the acronym "SRT" will follow the investigative unit in the text.
- 2. The investigative supervisor will secure a talk group from the Communications Sections. When possible the investigative supervisor will ensure the talk group is monitored by a dispatcher during the entry and clearing phases of the warrant service. Once the premise is secure, the investigative supervisor will provide the Communications Section the entry time and notify them that monitoring is no longer necessary.
- 3. Prior to the executing the search and seizure warrant, the investigative supervisor will notify the on-duty patrol supervisor of the service. The notification will minimally include location, investigative unit, talk group and estimated time of service.

**30 MANNER OF ENTRY:**

- 1. The manner in which entry is made into a premises pursuant to a search and seizure warrant

will be dictated by circumstances enumerated in the Application and Affidavit and elements existent at the time of service. Unless exigent circumstances exist at the time of the warrant service justifying a “no knock” entry, or the supervisor in command of the operation can articulate, and is prepared to testify in court to, the totality of circumstances justifying a “no knock” entry, the warrant will be served following “knock and announce” entry procedures, and in a manner that is reasonable and appropriate based on the facts of the investigation and the circumstances at the time of service.

2. Entry into a premises may need to be forced if the warrant is served using “no knock” entry procedures or if, while using “knock and announce” entry procedures, a reasonable amount of time has elapsed without a response admitting the officers.
3. On those occasions when forcible entry into a premises does occur, the facts constituting the justification for this entry, as well as a narrative describing the force used in gaining entry and any damage resulting from the entry, will be enumerated in the narrative portion of an investigative report.

#### **.35 KNOCK AND ANNOUNCE ENTRY:**

1. When utilizing “Knock and Announce” entry procedures, unless exigent circumstances are present, officers will knock, verbally identify themselves as police officers in the possession of a warrant, request entry and wait a reasonable amount of time for a response from within the premises.
2. The size and nature of the premises will be taken into account when considering what is a reasonable amount of time to await a response from within the premises. When serving a warrant at an apartment, as opposed to a large dwelling, it stands to reason that an extended response from within an apartment may indicate activity within the premises that could be considered a threat to the serving officers or an effort to destroy evidence. Conversely, a longer wait for a response may be indicated when serving a warrant at a larger dwelling where it would take longer for a person to respond.
3. The nature of the evidence sought will also be considered when determining a reasonable time to wait for a response. Evidence such as controlled dangerous substances or documentation, by its very nature may be more easily destroyed than evidence such as stolen auto parts or stereo equipment. Consequently that time which is considered to be reasonable in seizing more easily concealed or destroyed evidence would be shorter than when seizing evidence which is more difficult or impossible to destroy.
4. When using “knock and announce” entry procedures, certain exigencies may justify an immediate change to “no knock” entry procedures. These circumstances may be justified pursuant to observations made during the approach to the location or activity within the premises after a demand to enter has been announced that indicates a threat to the serving officers or the imminent destruction of evidence

#### **.40 NO KNOCK ENTRY:**

1. There may be instances where forcible entry without notice may be appropriate. This would involve a situation in which pre-service surveillance has established the existence of certain observations about the premises that constitutes justification for a “no knock” warrant entry.
2. When considering the reasonableness of a no knock entry, the Courts normally consider two (2) issues: the safety of the serving officers or the destruction of evidence. If specific information is existent prior to obtaining the warrant that indicates either of these issues may be existent, that specific information should be included in the Application and Affidavit. Said

justification should be as specific as possible and timely. This would include, but not be limited to recent prior violent offenses on the part of the suspect(s), current intelligence indicating the presence of weapons with an intent to use, or prior specific instances where the suspect destroyed or attempted to destroy evidence.

3. If the supervisor in charge of the search warrant service determines that sufficient justification exists for service of the warrant without knocking and announcing, the warrant will be served using "no knock" entry procedures. This determination may be made prior to the commencement of the operation or during approach to the location. If the warrant is served using "no knock" entry procedures, officers will immediately force entry into the location, while simultaneously announcing themselves as police officers in possession of a warrant, without waiting for response or admittance from the residents.

#### **.45 OFFICER SAFETY CONCERNS:**

1. Once entry has been gained into a premises, officers will conduct themselves in a manner that provides security for the operation, but does not violate any person's rights or exceed a use of force necessary to provide for the safety of the operation. All occupants found in the premises or within the curtilage shall be detained within the premises where security will be maintained during the course of the operation. If individual occupants are to be interviewed at the premises, interviewing officers will escort each person to and from the location where said interview is conducted.
2. If the warrant authorizes the search of occupants, all occupants believed to be in violation of the enumerated statutes (*Ybarra v. Illinois*) shall be thoroughly searched in an orderly manner by officers of the same gender. All items seized from these occupants shall be taken into custody by the recorder, as enumerated herein. If the warrant does not authorize the search of occupants, reasonable suspicion to believe an occupant could be armed must be existent to conduct a "pat down" for weapons.
3. Persons who wish to leave the premises during the operation who are not taken into custody will be allowed to leave as soon as practicable. Once a person has left the premises, absent some exigency or special circumstance, he/she will not be allowed to return until all officers have secured from the premises. Persons not at the premises at the time of entry, who wish to enter the premises, may be allowed entry into the premises at the discretion of the investigative supervisor. The investigative supervisor will consider the reason for the request to enter the premises and the person's interest in the premises when deciding whether to admit or prohibit entry. Any person allowed entry will be subjected to a thorough search if the warrant authorizes same, or in those instances where a search of persons is not authorized, a pat-down for weapons may be conducted if there is reasonable suspicion to believe the subject to be armed, prior to entry onto the premises.
4. Except as stipulated herein, all occupants who remain on the premises during the operation will be maintained in a location within the premises where an assigned officer will maintain security of them. This officer will maintain security until all officers secure from the premises upon completion of the operation. In those instances where it is necessary to separate individuals, the supervisor/commander of the operation will assign officers to accomplish this task.

#### **.50 NON-PREMISES SEARCH AND SEIZURE WARRANTS:**

1. Search and Seizure Warrants may also be obtained to authorize the search of areas or items other than premises such as vehicles, motor homes, garages, businesses, etc. or authorize the seizure of items such as handwriting or physical evidence from a person.

2. When executing search and seizure warrants that do not involve a premises, a written operation plan is not required; however, specific duties will be assigned as enumerated hereinbefore and subjected to review by a supervisor prior to the execution of the search and seizure warrant. The utilization of uniform personnel will not be required. The employment of health-care personnel when necessary will be coordinated by the case investigator.

**.55 SCOPE OF SEARCH:**

The scope of the search will be dictated by the items enumerated in the search and seizure warrant that are the subject of the search. For example, If the warrant authorizes a search for a person, officers are authorized to search only in locations that could physically conceal a person. Conversely, if the warrant authorizes a search for controlled dangerous substances, officers are authorized to search in locations where the merest trace of a controlled dangerous substance could be contained.

**.60 INTENSITY OF SEARCH:**

1. A search and seizure warrant does not empower officers to destroy property or harass individuals. Officers will always consider the scope of the search as enumerated herein. They will treat all occupants and property with respect. If probable cause exists to believe that items sought are concealed within walls or under floors that information will be included in the Application and Affidavit, which will result in the issuance of a search and seizure warrant that will authorize this intrusive type of search. Additionally, if circumstances existent at the time of the service of the warrant indicate such a concealment exists, officers will obtain concurrence from a prosecutor and obtain supervisory approval before searching in a manner that will require repair to the premises.
2. When it is necessary to cause damage to locate evidence, all effected areas will be photographed before and after the damage, to verify the extent of damage necessary to thoroughly conduct the search. Officers executing a Search and Seizure Warrant are also authorized to photograph the premises before/after a search has been conducted if there are indicators that a complaint may be filed regarding the conduct of the execution of the Warrant. The use of video and/or photographic imagery may be utilized, where indicated.

**.65 DURATION OF SEARCH:**

A search and seizure warrant authorizes the police to search a specific location for specific items. If a specific item is sought pursuant to the search and seizure warrant, once that item has been located, all searching must cease. When it is not possible to identify specific items, all searching will be conducted within the scope of the search as stated herein. Once the officers have left the curtilage, no return to the premises to search is authorized unless another search and seizure warrant has been obtained.

**.70 USE OF SPECIAL RESPONSE TEAM (SRT):**

1. If facts of the investigation indicate the potential for a “no-knock” search and seizure warrant entry, including possible threats to officer safety or destruction of evidence, the supervisor of the investigating officer will consult with the SRT Team Leader regarding the use of the SRT for warrant entry.
2. The SRT will make entry on all search and seizure warrants with significant indicators of potential officer safety issues or destruction of evidence issues. Utilization of SRT will be coordinated between the supervisor of the unit obtaining the Search and Seizure Warrant, the SRT Team Leader, and the CID Commander. Once a determination has been made to request the SRT for warrant entry, the CID Commander will make notification to the chain of command.

**.75 PLAIN VIEW DOCTRINE:**

1. During the search of a premises, officers oftentimes will locate an item they wish to seize but is not enumerated in the statement of probable cause. For example, one might be looking for stolen auto parts from a particular investigation and locate stolen stereo components from another investigation. The "Plain View Doctrine" **may** apply. Conversely, it may be necessary to obtain another search and seizure warrant to seize this item. The elements of the "Plain View Doctrine" are as follows:
  - A. The law enforcement officer is legally present at the location where he finds the item.
  - B. The discovery of the item is inadvertent.
  - C. Upon discovery, it is **readily apparent** that the item is stolen/evidence/contraband.
2. If you move an item to read its serial number to determine if it is stolen, element #3 above does not exist, therefore to seize that item you would be required to obtain another search and seizure warrant.

**.80 WARRANTS OUTSIDE OF JURISDICTION:**

During the course of an investigation, it may be necessary to obtain a search and seizure warrant for a location that is not within the jurisdiction of the Frederick Police Department. In cases such as this, the supervisor of the operation will obtain the assistance of the police agency having jurisdiction at the location of the search.

**.85 ASSISTING OTHER AGENCIES:**

The Criminal Investigation Division will serve as primary divisions within the Department who will assist a member of another Department who is intent on obtaining and serving a Search and Seizure Warrant within the corporate limits. In addition to assisting with the preparation of Court documents, the assigned investigator will maintain contact with his/her supervisor, who will assure that all relevant mandates enumerated in this General Order are adhered to.

**.90 SUPERVISOR'S TASK LIST:**

1. Review Application and Affidavit, as well as Search and Seizure Warrant, to assure that all required elements are contained within the documents and that document is current.
2. Assign duties to officers participating in service. For premises searches, compose written operational plan. This includes, but is not limited to, the assignment of personnel to maintain security, search, photograph, seize evidence, and transport prisoners.
3. Coordinate with SRT Commander/Supervisor (if SRT will make entry).
4. Make notifications as enumerated herein.
5. Coordinate service of Warrant with allied jurisdiction if outside of Corporate Limits.
6. Assure that Search and Seizure Warrant as well as Report and Return of Search and Seizure Warrant are filed with the Court within ten (10) days of service.

**.95 INVESTIGATING OFFICER'S TASK LIST:**

1. Complete Application and Affidavit enumerating:
  - A. Relevant statutes that are being violated which justifies the search;
  - B. Complete description of the premises that is to be searched;
  - C. The documentation utilized to establish occupancy of the premises by the suspect;
  - D. A full statement of training, experience and expertise on the part of the Affiant;
  - E. A comprehensive statement of probable cause justifying the search;
  - F. A comprehensive list of the items sought;
  - G. Suitable language to obtain permission to search appropriate locations where items sought may be located; and,
  - H. Include any factors justifying a possible "no knock" warrant entry, if applicable.
2. Complete the Search and Seizure Warrant enumerating:
  - A. Relevant statutes that are being violated which justifies the search;
  - B. A complete description of the premises that is to be searched;
  - C. The name of the Affiant;
  - D. A comprehensive list of the items to be seized;
  - E. Suitable language to instruct officers to search appropriate locations where items sought may be located; and,
3. Present original and 2 copies of Application and Affidavit, as well as Search and Seizure Warrant before judge.
4. Upon issuance, leave original Application and Affidavit in the custody of the court.
5. Insert copies of Application/Affidavit and Search/Seizure Warrant into case file.
6. Execute Search and Seizure Warrant with the "necessary and proper assistance," assuring that:
  - A. Original Search and Seizure Warrant is "copied" at time of service; and,
  - B. Copy of Application and Affidavit, Search and Seizure Warrant and Inventory are either delivered to occupant or posted in conspicuous location at premises.

**.100 RECORDER'S TASK LIST:**

1. Assure that all seized evidence is photographed and handled properly when taken into custody.
2. Complete a detailed inventory of all items seized.

3. Review inventory with occupant and obtain signature.
4. Compose Report and Return of Search and Seizure Warrant.
5. File served original of the Search and Seizure Warrant as well as Report and Return of Search and Seizure Warrant with issuing court within ten (10) days of service.