



## Colorado Springs Police Department General Order 743

### Section 7: Search Warrants -- Force, Detention, and Arrest

Active Date: 6/26/2017

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## .1 Purpose

To specify procedures for obtaining and executing search warrants.

## .2 Cross Reference

[GO 740, Determining Probable Cause](#)

[GO 330, Damage to Non-Police Property](#)

[GO 880, Deconfliction](#)

[GO 1330, Ride-Along Program](#)

[SOP P1-166, Search Warrant Checklist](#)

[SOP M1-33, Raid Procedures](#)

[SOP M1-02, Handling of Affidavits for 41.1 Orders: Search and Arrest Warrants](#)

[SOP M1-16, Electronic Warrants](#)

[SOP I2-02, Handling of Affidavits for 41.1 Orders Search and Arrest Warrants](#)

[SOP II-17, Fax Warrants](#)

## .3 Discussion

The nucleus of the Fourth Amendment is the warrant requirement and the essence of the warrant requirement is probable cause. A search warrant must be obtained to search areas where a person has a reasonable expectation of privacy (e.g. a home) unless a recognized exception to the warrant requirement exists.

Note: Colorado law pertaining to arrests, searches, and seizures is contained in Article 3, Title 16, of the Colorado Revised Statutes. The present General Order provides guidance for implementing its provisions concerning searches, but familiarity with the applicable statutes is essential. Every sworn member of the Department, regardless of present assignment, is expected to know the provisions of that Article thoroughly.

## **.4 Policy**

The Colorado Springs Police Department will exercise utmost care to respect personal and property rights by following carefully-defined procedures in obtaining and executing all search warrants. Execution will be carried out thoroughly and vigorously, but with the minimum of force necessary to fulfill legitimate police purposes.

## **.5 Definitions**

**AFFIANT:** A person who swears under oath that the information contained in the affidavit is true. This is usually an officer.

**AFFIDAVIT:** A document stating facts under oath that give probable cause to believe that a crime has occurred and that certain crime-related evidence is located in a specific place.

**SEARCH WARRANT:** An order, in writing, from a court of record that permits a peace officer to search a particular place or person for crime-related evidence. It must be based upon probable cause.

## **.10 Authority to Search with Warrant**

In compliance with Article 3, of Title 16, Colorado Revised Statutes, a search warrant shall issue only on affidavit sworn to or affirmed before the judge and relating facts sufficient to:

- Identify or describe, as nearly as may be, the person or property to be searched for, seized, or inspected;
- Identify or describe, as nearly as may be, the premises, person, place or thing to be searched;
- Establish the grounds for the issuance of the warrant or probable cause to believe that such grounds exist;
- Establish probable cause (see [GO 740](#)) to believe that the property to be searched for, seized, or inspected is located at, in, or upon the premises, person, place, or thing to be searched.

All officers and detectives will use the standard approved forms available when completing the face sheet, application, affidavit and attachments necessary to obtain a search warrant.

## **.18 Authorization to Search for Controlled Substances**

All search warrant affidavits that are specifically requesting authorization to search for controlled substances shall be coordinated with the Metro Vice, Narcotics, and Intelligence Division. Contact with an on-duty or on-call supervisor assigned to Metro VNI should be made, as soon as possible, so that detectives may assist, if necessary, with the preparation of the affidavit, assist with efforts to corroborate information, assist with surveillance measures, and ensure that the warrant does not interfere with an on-going Metro VNI investigation. (See G.O. 880 on Deconfliction.)

## **.20 Entry Into a Private Dwelling to Make a Search**

After obtaining a search warrant, and having it physically in their possession, officers may enter a private dwelling to conduct a search in accordance with the following procedures.

No member of the news media, nor any other third party other than a member of the CSPD or other law enforcement official, then in the performance of official duties, will be permitted to accompany officers of the Colorado Springs Police Department into a private dwelling, or a private office that is not open to the general public, during the execution of a search warrant without the specific, prior approval of the lawful owner or occupant of those premises.

Exceptions may be made on a case-by-case basis for persons whose presence is critical to the accomplishment of the search warrant, such as contractors employing specialized technical skills, victims/witnesses who are critical to the identification of persons or property being sought, and like circumstances.

## **.21 Promptness of Search**

Search warrants should be executed as promptly as practical and not later than 14 days after issuance. Unnecessary delays should be avoided. If a search warrant has expired prior to execution, a new search warrant should be applied for.

## **.22 Preliminary Measures**

Except when a "no-knock warrant" has been obtained, as described in paragraphs .40 through .44 below, certain actions are required before attempting entry:

- Knock on the door and announce your authority and purpose

- Demand entrance.
- Wait a reasonable amount of time.

## **.24 Manner of Entry**

The manner of entry to conduct the search will depend upon the response of the person against whom the search is directed. If the person complies with the entry demand, the officers may enter immediately and conduct the search. If the person audibly refuses to comply, an immediate forcible entry may be made. The degree of force used must be reasonable; that is, it must be sufficient to promptly and safely gain access, but no more. Ordinarily, this means breaking open the door.

Devices such as pry bars, axes, battering rams and sledge hammers may be used, if necessary, to make immediate entry. If the person behind the door remains silent or responds ambiguously to the entry demand, officers must wait a reasonable time before making a forcible entry. Examples of ambiguous responses include:

- "I'm getting dressed."
- "Take it easy."
- "What's the rush?"

A reasonable time depends upon the circumstances, and particularly with regard to the object of the search. What may be reasonable with respect to stolen typewriters may not be reasonable if gambling records on flash paper or water-soluble paper are sought. A good rule of thumb is thirty seconds, but this time will be less if highly disposable evidence is involved. If, during the announcement procedure, the officers have reason to believe they or others will be endangered by further delay, or that the occupant is escaping, or that no occupant intends to voluntarily admit officers, or that the evidence sought is in the process of being destroyed or in immediate danger of being destroyed, an immediate entry may be made. Officers are under no obligation to argue or negotiate with a person whose property is to be searched, nor should they display credentials through peep holes, slide a copy of the warrant under the door or otherwise delay the execution of the warrant beyond the procedure described above.

## **.26 Exigent Circumstances**

At times, before officers can "Knock and Announce" during the execution of a "Knock and Announce" search warrant, unanticipated, exigent circumstances may develop that provide the officers with probable cause to believe that:

- Evidence subject to seizure is about to be destroyed or disposed of; or
- The lives or safety of the officers or other persons are in jeopardy; or
- A party to be arrested is attempting to escape.

In these circumstances, an unannounced entry may be made. However, in the case supplement, following the execution of the warrant, the officer must describe in specific written detail the probable cause that led him/her to believe that one or more of the above exigent circumstances was occurring or was about to occur.

## **.30 Scope of Search**

After having made entry, officers should take whatever reasonable steps are necessary to protect themselves. They may control the movements of persons found inside the premises and may frisk such persons for weapons on a reasonable suspicion that they are armed. Persons found within the premises may not be searched for evidence described in the warrant unless those persons are specifically described in the warrant. Therefore, if the items sought are apt to be concealed on persons thought to be in the premises, those persons should be named in the warrant.

Generally speaking, persons found on premises when a search warrant is executed or persons that show up during the execution of the search warrant should be allowed to leave if they desire, unless they are named in the search warrant or probable cause to arrest exists. However, officers executing a search warrant for contraband (e.g. drugs) may normally detain persons present who are associated with the premises. Additionally, persons present during the execution of a search warrant may be detained if officers have a reasonable belief that those persons may alert other persons, thus allowing the escape of others or the destruction of other evidence that officers may have probable cause to arrest or search for based upon items discovered, or not discovered, during the present search (for example during the execution of multiple search warrants).

The search may extend to all places within the premises where the evidence or the person sought could reasonably be concealed. Such places may include personal property found on the premises described, such as duffel bags, suitcases and automobiles. The scope of the search, therefore, is directly related to and is controlled by the objective of the search. Officers are under no obligation to begin or end the search at any particular place within the premises.

## **.32 Duration of Search**

A search under warrant must be terminated when the evidence described in the warrant has been found and seized. If one of several items described in the warrant has been discovered, the search may continue for other evidence. If no evidence is found, the search must end when the officers have exhausted all possibilities as to where the evidence could be concealed.

## **.34 Intensity of Search**

The search warrant is not a license to destroy or harass individuals. However, under certain circumstances it will permit a highly intensive search which disrupts or damages property. Thus, a floor may be pulled up, or a wall torn down, or a garden dug up, if officers have a reasonable

belief that the evidence sought under the warrant has been concealed in such a place. That belief should be detailed in the affidavit for the search warrant.

## **.36 Plain View Doctrine**

If officers are lawfully executing a search warrant, and within the scope of that search warrant they observe evidence in plain view, such evidence may be seized, even though it is not described in the warrant and not relevant to the offense under investigation provided that the officers have probable cause at the time of the discovery to believe that the item(s) is either contraband or crime-related. In major cases, it is a good idea for officers to consider obtaining an additional warrant prior to seizing these items.

## **.40 No-Knock Search Warrants**

The legality and use of no-knock search warrants has been affirmed by the Colorado Supreme Court. Additionally, CRS 16-3-303 addresses the issuance of No-Knock search warrants. A No-Knock search warrant means a search warrant served by entry without prior identification.

In preparing the affidavit for a no-knock warrant, the affiant must cite specific probable cause to believe that:

- The subject or subjects inside the premises to be searched will destroy or dispose of evidence sought by the warrant; or
- The subject/subjects inside the premises are armed and dangerous and that announcing entry would endanger the lives and/or safety of officers and/or other persons; or
- Announcing entry would cause the subject/subjects in the premises, who are to be arrested, to escape.

Information that may substantiate the need for a no-knock warrant may be found in many ways, including:

**Criminal History of Suspect.** A check of criminal history may disclose that suspect has been convicted of assault. The fact that the suspect has displayed a tendency toward violence in the past may assist the application for a no-knock search warrant.

**Firearms Sales Records:** Information demonstrating that the suspect has purchased a firearm or is in possession of a firearm. This information, coupled with a propensity toward violence, may afford the affiant sufficient probable cause for a no-knock warrant.

**Informant/Witness Statements:** A debriefing of confidential informants, and/or witnesses, may disclose information for probable cause. For example, a suspect may have told an informant/witness that s/he keeps his/her drugs packaged in small containers that can be easily disposed of by flushing in a toilet or using a garbage disposal. A suspect may have indicated that s/he will shoot it out with police if they attempt to enter his/her property for purposes of a search.

Intelligence Files: These may contain any of the above information in other areas, or other information that would assist an affiant in developing probable cause for an affidavit for a no-knock warrant.

## **.42 Completion of No-Knock Warrant Procedure**

Warrant preparation will be completed by the initiating officer. Application for no-knock warrants must contain the wording "No-Knock" or other language that specifically allows unannounced, forcible entry on the face of the warrant. A complete description of the exigent circumstances used as the basis for a no-knock warrant and a specific request for a no-knock warrant must be contained in the affidavit.

If grounds for the issuance of a No-Knock search warrant are established by a confidential informant, the affidavit for such warrant shall contain a statement by the affiant concerning when such grounds became known or were verified by the affiant. The statement shall not identify the confidential informant.

After a review of the affidavit has been conducted by the initiating officer's chain of command through the rank of lieutenant, a decision will be made as to whether or not the affidavit meets the criteria for a no-knock search warrant. If the involved lieutenant agrees that the affidavit meets the criteria for a no-knock search warrant, the involved lieutenant will coordinate a review of the affidavit by the Tactical Enforcement Unit Sergeant/designee and the Tactical Operations Section Lieutenant/designee, prior to the signing of the warrant. As a rule of thumb: if you're not sure whether or not the probable cause currently present meets the criteria for a no-knock search warrant, coordinate your efforts with the Specialized Enforcement Division or Metro VNI Division first, rather than find out later that a safety hazard exists because a no-knock warrant was not obtained.

If the TEU Sergeant and Tactical Operations Section Lieutenant agree that the affidavit meets the criteria for a no-knock search warrant, the review process will continue through a Department Staff Officer, usually the Specialized Enforcement Division Commander or the Metro VNI Commander. If the Department Staff Officer agrees that the criteria exist for a no-knock warrant, the investigating unit will coordinate a review and signing of the no-knock search warrant through the District Attorney's Office of the Fourth Judicial District. The presentation of the affidavit for review by the District Attorney's Office, as well as the judge, shall remain with the originating officer/affiant.

During normal business hours, the District Attorney's review will be conducted at the District Attorney's Office. The District Attorney's review of the affidavit for a no-knock search warrant must be conducted by the District Attorney, the Assistant District Attorney, or a Chief Deputy District Attorney. After normal business hours, the District Attorney's review will be conducted by the designated on-call Homicide Deputy District Attorney. The involved attorney representing the District Attorney's Office shall indicate approval of the affidavit for a no-knock

search warrant by signing, dating, and attaching their attorney registration number on the final page of the affidavit.

## **.44 Execution of No-Knock Warrant**

The execution of a no-knock search warrant may pose extreme danger to both the officers making entry and to occupants of the premise being entered, or to others in the vicinity. The Tactical Enforcement Unit of the Colorado Springs Police Department is a specially trained force that is best suited for conducting this type of mission.

The Tactical Enforcement Unit will conduct all no-knock search warrant raids. If the Tactical Enforcement Unit is not available for a no-knock warrant because of another mission, the Specialized Enforcement Division Commander will review the no-knock warrant and the other mission and will determine the mission priorities for the Unit. If the no-knock warrant is placed on hold, the Tactical Enforcement Unit Commanding Officer will advise the affiant, or his/her supervisor, as to when they may anticipate the execution of the warrant.

A Command Level Officer will be designated for each no-knock warrant execution. This designated Command Level Officer will normally be the Tactical Operations Section Lieutenant or a Metro VNI Lieutenant, but another Lieutenant or higher-ranking officer may be given the duty when necessary. The commanding officer must be present before execution and will take part in all pre-execution briefings.

The designated commanding officer, after reviewing all appropriate documents, will continue to monitor the situation until the warrant has been executed and the warrant site secured. The designated commanding officer will continue the monitoring responsibility even if the activity carries over for one or more watches.

In the event of watch overlap, all supervisors within Departmental components and units, which are connected in any manner with the execution of the warrant, will be responsible for briefing their relief personnel on all relevant matters.

## **.46 Conclusion of Search Warrant Execution**

At the conclusion of the execution of a Knock and Announce or a No-Knock search warrant, a copy of the search warrant along with a list of any items seized should be left with a responsible occupant. If nobody is present, a copy of the warrant and a list of seized items should be left in a conspicuous place. The Return of Execution of Search Warrant should be completed promptly after the search concludes and returned to the court.

## **.50 Consent Searches**

Consent searches are recognized by the courts as a valid means of conducting police activities so long as the search meets certain legal requirements. In order for a warrantless search to be conducted based upon consent, the courts have said that the consent must be free and voluntary. Colorado law also states that police officers requesting a consent search must inform the person giving consent that the search is voluntary, and that the person has the right to refuse consent. Failure to meet these requirements may be considered by the courts as a factor in determining the voluntariness of the consent.

When officers are seeking to conduct a consent search of a person's vehicle, home, effects, or any other legally protected item or place, the officers shall inform that person that they are being asked to voluntarily consent to the search and that they have the right to refuse consent to the search. Officers are not required to use a verbatim advisement. Substantial compliance with the substance of the advisement factors is sufficient to show compliance.

Officers should use the standard search warrant waiver form to document consent searches whenever possible; however, use of the form is not required. Officers shall document the advisement of the voluntary nature of any consent searches in appropriate case reports or summonses. Should an officer conduct a consent search which does not result in a case report or summons, the officer will ensure that the voluntary nature of the search is noted in the associated call screen in CAD.

## **.60 Pat-Down Searches For Weapons**

When an officer has contacted a person for questioning either by consent or based upon reasonable suspicion (pursuant to C.R.S. § 16-3-103) and the officer reasonably suspects that the person is armed and dangerous, the officer may conduct a pat-down search of that person for weapons. In determining whether a person presents such a danger as to require a pat-down search, an officer may consider all of the relevant factors including but not limited to; the person's behavior, prior knowledge that the person is known to carry weapons, the type of crime that is reasonable suspected, number of suspects or other people present, the time of day, the number of officers present, and any other information that supports the officer's conclusion that the person is armed and poses a danger to the officer or others. Pat-down searches based upon reasonable suspicion must be limited in scope to the protective safety purpose which is the detection and discovery of a weapon and not a general search for evidence of a crime. Officers should note that pat-down searches for a weapon may be conducted at any time upon consent given by the person subject to the pat-down search.