

652.00 SEARCH WARRANTS

First Universal Review: 5/15/23 – 5/30/23

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DIR 631.60 Premises Entry

DIR 650.00 Search and Seizure

DIR 660.10 Property and Evidence Procedures

DIR 660.30 Evidence Funds Use

DIR 660.32 Agent/Informant Processing

DIR 720.00 SERT and HNT Use

Planned Operations Risk Assessment form (TOD) DVD

Completed Activity Report (DVD)

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POLICY (652.00)

A search warrant should be obtained for all searches whenever there is time to do so and when there is any doubt about the necessity of obtaining a warrant.

PROCEDURE (652.00)

Any magistrate authorized to issue a warrant of arrest may issue a search warrant for:

- a. Evidence of, or information concerning, the commission of a criminal offense.
- b. Property that constitutes contraband or items otherwise criminally possessed.
- c. Fruits of a crime (see ORS 133.535).
- d. Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense.
- e. A person for whose arrest there is probable cause or who is unlawfully held in concealment.

Search Warrant Issuance (652.00)

- a. Application for a search warrant may be made by a district attorney or by any police officer. Search warrants and affidavits will normally be written by the member requesting the warrant. Warrant preparation will be coordinated with the appropriate investigative unit.
- b. 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 member’s personal knowledge and/or hearsay information from another member, a named citizen or undisclosed informant. The probable cause is relayed to the magistrate through use of an affidavit. The affidavit should:
 - a. Contain a clear and distinct description of the place(s) to be searched and the item(s) to be seized.
 - b. Provide facts and circumstances which provide probable cause for the search. This includes:
 - i. Information justifying the search; and
 - ii. 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.

- c. 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.
- d. Prior to the issuance of a search warrant, a magistrate may request that a meeting be arranged at a time and place convenient for all parties involved, so the magistrate can interview any informant(s) contributing information towards the probable cause.
- e. 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).
- f. An ongoing chronological record will be maintained of each informant's activities and reliability by those divisions issuing evidence/informant funds. This file is to be reviewed by a supervisor prior to requesting a search warrant based on an informant's reliability. Members will comply with DIRs 660.00 and 660.32.

Search Warrant Checklist (652.00)

A search warrant checklist has been adopted by the Bureau, the Multnomah County District Attorney's Office and Multnomah County court magistrates.

This checklist is available on the Bureau's Intranet. Included on the checklist is a section indicating the investigator has conducted a check through Oregon State Intelligence Network (OSIN) to ensure that the warrant address is not currently the subject of an investigation by another agency and/or division.

The check is mandatory, and will be done prior to the issuance of any search warrant. This form will be used for all Multnomah County search warrants obtained by the Bureau. Members should follow warrant application and return procedures for other counties as instructed by local magistrates.

A supervisor should review the probable cause, informant reliability, and the search warrant affidavit prior to its submission to the DA's office. A deputy district attorney (DDA), from the appropriate county, will review every search warrant affidavit in person, by telephone or by email.

A copy of the search warrant and the original affidavit will be left with the issuing magistrate. Search warrants will be served as soon as possible. Extended delay of service is to be avoided.

Threat Assessment and Planning (652.00)

All search warrant executions involving a potential threat to members or citizens require a Planned Operations Risk Assessment form be completed prior to execution. This form is available on the Bureau's Intranet.

Examples of a threat might include, but not be limited to, violent suspects, animals, obstacles causing a delay to securing the search location, or even a lack of information about the location to be searched.

The supervisor responsible for the search warrant execution is responsible for the proper completion of the risk assessment form and any other necessary planning to ensure the safe and effective service of the warrant. The supervisor will ensure that the SERT commander, or designee, will be consulted, as required by the completed Planned Operations Risk Assessment form. This will assist the evaluation for need of SERT and/or HNT in the execution of the warrant.

If SERT/HNT are needed or requested, the SERT commander, or designee, will coordinate with HNT and the originating division/unit commander or designee, to ensure all tactical considerations have been discussed. The original completed risk assessment form, if not forwarded to SERT as a request for their services, will be retained in the investigator's case file.

Execution of the Warrant (652.00)

- a. Only a police officer may serve a search warrant. Generally, execution of a search warrant is restricted to between 0700 and 2200 hours unless it is otherwise endorsed on the warrant by the issuing magistrate.
- b. A warrant is generally valid for five days after the date of its issuance. If the warrant is not executed within this period, it is void. A new affidavit must be filed and new search warrant issued. The issuing magistrate may, however, authorize execution of the warrant for up to ten days after its issuance. This authorization must be specified on the face of the 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. In emergency situations, a no-knock entry may be performed (i.e., where members or others are at risk of bodily harm or where evidence may be destroyed). If such entry occurs, the circumstances leading to the entry will be clearly articulated in the incident report form. If it is determined that no one is at the residence, members have the authority to forcibly enter (see DIR 631.60). Before undertaking any search or seizure pursuant to the warrant, the executing member will:
 - a. Read and 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.
 - b. Affix a copy of the warrant to the premises if the premises are unoccupied, or there is no one in apparent control.
- c. 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 proper 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 central location for observation during the search.
- d. 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.

Limitations of Warrants (652.00)

- a. 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.
 - a. The search must be terminated once all items specified in the warrant are discovered.
 - b. If during execution of a warrant, there is inadvertent discovery of evidence not specified in the warrant (even when the evidence is of an unrelated crime), it may be seized under the plain view exception.
 - c. 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 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.

- b. 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.

Post Execution Responsibilities (652.00)

Upon execution of the search warrant, the member will:

- a. 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 the place where the property was found.
- b. Secure the location if the owner or other responsible party is unavailable.
- c. File all affidavits, search warrants and returns, regardless of any associated cases, with the Circuit Court issuing judge. Members will file the search warrant return and receipts as soon as reasonably possible, but no later than five days, after the execution or expiration of the warrant.
- d. Following execution of a search warrant which involves the distribution or manufacture of controlled substances, prostitution and/or gambling, members will complete a Drugs and Vice Division (DVD) Completed Activity Report and forward the form to DVD. The information may be used to take action against the property owner under the specified crime property ordinance.

Telephonic Search Warrant Guide (652.00)

- a. Preparation:
 - a. Assemble notes, outline or handwritten affidavit (for dictation).
 - b. Type or handwrite the search warrant.
 - c. Discuss with the DDA, if appropriate.
 - d. Locate the judge.
 - e. Discuss briefly with the judge to resolve any questions.
- b. Turn on recorder; remember, what you told the judge before the recording starts does not count, so start over at the very beginning.
- c. Preface phrase:
 - a. Affiant's name.
 - b. Date and time.
 - c. Telephonic warrant.
 - d. Judge's name and authority.
 - e. Note that this is a recording.
 - f. Example: This is Officer (Name) presenting a telephonic affidavit for a search warrant on (Date) at (Time). This request is being made to Judge (Name), of the Circuit Court, Multnomah County, State of Oregon, and is being tape recorded for later transcription.
- b. Affiant identification phrase:
 - a. Name.
 - b. Oath (Upon my oath, I (Name), do hereby depose and say...).
 - c. Employer, assignment, length of service.
- c. Factual information – body of affidavit; organize your dictation to cover all critical areas including:
 - a. Informant credibility and reliability.
 - b. Observations of informant.
 - c. Location of place to be searched, property to be seized, identity of resident.

- d. Corroboration, if available.
- e. Venue (judge must be from court where search is to be done).
- d. Request permission to search (Standard Request for Warrant).
- e. Have judge administer oath.
- f. Read typed or handwritten search warrant to judge. Judge must hand write or type original warrant.
- g. Obtain permission to search.
- h. Obtain permission to sign judge's name to duplicate warrant.
- i. Have judge declare that the judge is signing the original search warrant.
- j. Note time and date of authorization; end tape. Make sure the judge writes the time and date on the original warrant.

Return of a Telephonic Search Warrant (652.00)

- a. Search warrant:
 - a. Present to the issuing judge the duplicate warrant that was prepared and signed by you within the date specified on the warrant (normally five days from the date of issue). Remember this should be the actual duplicate of the original warrant that the judge authorized you to sign over the phone, even if handwritten.
 - b. Make sure the judge has the original warrant that the judge prepared and signed.
 - c. Both should be filed with the court. Normally the judge will handle this.
- b. Tape and transcription:
 - a. Present both the tape and transcription to the judge at the same time and duplicate warrant is returned.
 - b. After the judge listens to the tape and reviews the transcription for accuracy, have the judge certify both the tape and the transcription.
 - c. Both the tape and the transcription should be filed with the court. Normally the judge will handle this.

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