

 Lexington Police Department	Subject: Executing Search Warrants					Policy Number: <h1>42F</h1>	
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By Order of: Mark J. Corr, Chief of Police							

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GENERAL CONSIDERATIONS AND GUIDELINES

The execution of search warrants can be a demanding and potentially dangerous task. Sufficient care should be taken in analyzing the circumstances surrounding the offense, the suspects, and the location at which the warrant will be served, and in planning an appropriate response.

Dangerous materials including, weapons, explosives, chemicals, drugs and other potentially deadly threats face the unsuspecting or unprepared officers. Assigning an insufficient number of officers, or relying on untrained personnel, may increase the risk of deadly consequences. It is essential to have a process to evaluate and classify search warrants, so as to tailor search warrant execution procedures.

The officer seeking the warrant should make certain that the judicial official contacted has the authority to issue search warrants in that locality and that the official has not made any errors on the face of the warrant or in the course of its issuance. The warrant should be scrutinized with great care to ensure that:

- The correct form has been used.
- All the blanks have been filled in.
- The information set forth is accurate and legally sufficient.
- The issuing magistrate or judge has properly signed the warrant.

It is the responsibility of the officer obtaining the warrant to make certain that the warrant is correct and has been issued properly. An additional review by the Detective Commander is recommended.

It is the policy of the Lexington Police Department to:

- Accomplish a thorough and legal search; respect the constitutional rights of the person(s) the warrant is being served upon;
- Minimize the level of intrusion experienced by those who are having their premises searched;
- Provide for the safety for all persons concerned; and
- Establish a record of the warrant execution process.

PROCEDURES

A. Definitions

1. **Search Site:** The premises to be searched, as explicitly stated in the search warrant.
2. **Search Personnel:** Law enforcement officers and supporting personnel taking part in the execution of a search warrant.
3. **Evidence Collector:** Member of the search team responsible for the possession, packaging, sealing, and marking of all items seized.
4. **Case Officer:** The officer primarily responsible for the investigation, and preparing, planning, and implementing the search warrant.
5. **Tactical Coordinator:** The officer responsible for planning and supervising tactical operations to include dynamic entry and other tasks requiring special weapons and tactically trained officers. The NEMLEC Swat Team is available for high-risk search & arrest warrants. The Bureau Commander in conjunction with the Case Officer will make an assessment & decision if their services are needed.
6. **Protective Sweep:** Quick and limited search of premises incident to an arrest or service of a warrant performed in order to identify weapons or other dangers to officers or others. Officers must be able to articulate a reasonable basis for conducting a protective sweep.

A. Warrant Service Planning

1. Case Officer Duties

- a. The case officer (usually a Detective) shall advise and receive approval from the Detective Commander before serving the warrant. The Detective Commander or designee shall then notify the Commanding Officer on – duty at the time the warrant is served.
- b. Selection of officers to serve the warrant shall be based on the officers' prior training and experience in conducting warrant service, consistent with the demands of the warrant service in question.
- c. Efforts shall be made to obtain adequate personnel to serve the warrant safely and efficiently.

42F-Executing Search Warrants

- d. The case officer shall ensure the complete preparation for serving the warrant, in accordance with its nature and complexity, and in consultation with the prosecutor, if necessary.
- e. The case officer shall determine the best date and time for warrant execution.
- f. The case officer shall determine equipment, team personnel, and any specialized team requirements.
- g. The case officer will prepare an Operational Plan identifying those who will participate in the search and their roles and responsibilities. Hazards must be identified and contingencies listed in the Operation Plan.
- h. The case officer shall ensure that the entire search warrant execution process is documented until the search team leaves the premises. A written record may be supported by photographs and, if practical, videotaping of the entire search process.
- i. Prior to the execution of the warrant, the case officer shall make a final assessment of the warrant's accuracy in relationship to the location to be searched.
- j. MGL Chapter 276 §3A states, every officer to whom a warrant to search is issued shall return the same to the court by which it was issued as soon as it has been served and in any event not later than seven days from the date of issuance thereof, with a return of his doings thereon; provided, however, that a justice of the superior court may at any time receive complaints and issue search warrants returnable in seven days before a district court named in such warrant and in that event the officer shall make his return to such district court as directed.

2. Intelligence – Case Officer will:

- a. Gather intelligence on the target site, to include the structure, immediate area surrounding the structure, and surrounding neighborhood.
- b. Assess the capabilities and backgrounds of suspects, to include criminal records and history of weapons usage and potential for violence.
- c. Prior to execution of the warrant, attempt to determine if any circumstances have changed that make executing the search warrant undesirable at that time.
- d. Where possible, pre-search surveillance shall be conducted up to the point at which the warrant is executed.
- e. Check with any accessible database provided by the Massachusetts Department of Public Health to seek to determine if any person likely to be present at the time and place of search is a registered patient, caregiver or dispensary agent under the state's so-called medical marijuana law. Note: It may not be possible to determine if a given location has been registered with the DPH as a grow site.

3. Search Warrant
 - a. Secure a warrant and ensure that it is thoroughly reviewed for accuracy, legal integrity, and completeness. For further information, see the department policy on **Search Warrant Affidavits**.
 - b. Search warrants must be served within seven (7) days of issue.
 - i. The need for a no-knock warrant or a no-knock entry should be considered prior to applying for the warrant and reassessed prior to execution.
 - ii. The need for a no-knock warrant shall be clearly specified in the application and affidavit for a warrant if probable cause exists at the time of application. A no-knock entry may be made if the officers have probable cause to believe:
 - (a) There is a risk to the safety of the officers or persons on the premises if an announcement is made.
 - (b) There is a risk of the escape of the person sought in the warrant.
 - (c) There is a risk of the destruction of evidence.
 - iii. Officers must reassess the need for announcing entry immediately prior to executing the warrant. If the probable cause no longer exists, the officers must announce prior to entry.
 - iv. Prior to conducting any search, afford any person present the opportunity to present a so-called medical marijuana registration card or other document authorizing them to possess or grow marijuana for medical purpose. To avoid any claims of self-incrimination, officers should not ask, "are you registered." Rather, "now would be a good time to show me any registration or other documentation that shows you are allowed to possess or grow marijuana."
 - v. If probable cause should develop after the warrant is issued and before it is executed, officers may enter unannounced.
 - c. Should nighttime service, between the hours of **10:00 p.m. & 6:00 a.m.** be deemed necessary, justification shall be included in the affidavit and must be authorized in the search warrant.
 - d. The use of a tactical team, if available, should be considered whenever a warrant calls for no-knock entry, nighttime entry, or service involving either drugs or subjects deemed particularly dangerous.

B. Preparation for Executing the Warrant [74.3.1]

1. Briefing

- a. The case officer and tactical coordinator should work cooperatively to ensure proper preparation, planning, and service of the warrant.
 - i. They shall detail procedures for executing the warrant to all team members in a warrant service briefing.
 - ii. The briefing shall be conducted by both the case officer and tactical coordinator, if participating.
- b. Identify personnel, resources, or armament necessary for gaining entry, safety and security of officers, or for conducting the search.
- c. If a joint agency task force operation, all officers participating in the warrant service shall be present and identified as members of the warrant service team.

2. Target

- a. Outline information concerning the structure to be searched and surroundings, to include floor plans where available, mockups, photos, and diagrams of the location identifying entrances, exits, obstructions, fortifications, garages, outlying buildings, suspect vehicles, and all other points of concern.
- b. Identify suspects and other occupants who may be present at the location—incorporating photos or sketches whenever possible—with emphasis on suspect threat potential, as well as the presence of children, the elderly or others who may not be involved with suspects.
- c. Make a complete review of the tactical plan, to include the staging area and route of approach.
- d. Develop procedures for exiting the location under emergency conditions.

3. Entry and Search

- a. The entry team shall at all times include uniformed officers who shall be conspicuously present where the warrant is served. All non-uniformed officers shall be clearly identified as law enforcement officers by a distinctive jacket or some other conspicuous indicator of office.
- b. All members of the search team may be required by the case officer to wear body armor or ballistic vests.

- c. Individual assignments shall be made for entry, search, management of evidence, custody and handling of seized vehicles, custody of prisoners, and post-execution duties, such as securing the location and conducting surveillance on the site for additional suspects.
- d. The specific items subject to the search will be defined in the warrant, with any available information on their location.
- e. Contingency plans shall be made for encountering hazardous materials, canines, booby traps, fortifications or related hazards, and shall include measures to take in case of injury or accident, to include the nearest location of trauma or emergency care facilities.

C. Entry Procedures

- 1. If an advance surveillance team is at the target site, contact shall be made to ensure that the warrant can be served according to plan.
- 2. The search personnel shall position themselves in accordance with the execution plan.
- 3. Notification: An easily identifiable police officer shall knock and notify persons inside the search site, in a voice loud enough to be heard inside the premises, that [s]he is a police officer and has a warrant to search the premises, and that [s]he demands entry to the premises at once.
- 4. Following the knock and announce, officers shall delay entry for an appropriate period of time based on the size and nature of the target site and time of day to provide a reasonable opportunity for an occupant to respond (normally between fifteen and twenty seconds).
- 5. If there is reasonable suspicion to believe that the delay would create unreasonable risks to the officers or others, inhibit the effectiveness of the investigation, or would permit the destruction of evidence, entry may be made as soon as practicable.

D. On-Premises Activities

- 1. Entry
 - a. The supervisory officer shall ensure that a protective sweep of the site is performed immediately.
 - b. Upon entry, the occupant shall be given a copy of the search warrant. If the property is not occupied at the time of the search, a copy of the warrant shall be left in a conspicuous location at the site.

2. Video Documentation Prior to Search
 - a. If practical, after the site has been secured, a photographic and/or videotape record of the premises should be made prior to conducting the search.
 - b. If damage occurs during an entry to premises, photographs of the damage should be taken where possible.

3. Search Process
 - a. Search personnel shall then follow the plan that details the likely whereabouts of the items to be seized and the order of operation for conducting the search.
 - b. Items specified in the warrant may be searched for in places where they may reasonably be expected to be located and seized, as well as other items that are reasonably recognized as evidence.

4. Evidence Documentation
 - a. The search must be accomplished in an organized fashion.
 - b. Evidence may be photographed in place prior to recovery.
 - c. An officer, designated in the plan, shall be responsible for collecting, preserving, and documenting all items seized until all seized property is transferred to the evidence custodian, laboratory, or other authority.
 - d. Cash and currency taken, as evidence shall be counted, documented, and placed in a sealed envelope or container by two officers.

5. Search Conclusion
 - a. Officers should exercise reasonable care in executing the warrant to minimize damage to property.
 - b. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, arrangements shall be made to guard the premises until it can be secured.
 - c. If items are taken from the search site, an itemized receipt shall be provided to the resident/occupant, or in the absence of the same, left in a conspicuous location at the site.

6. After Action Briefing: In a timely manner upon conclusion of the warrant service, the case officer and tactical coordinator may conduct a debriefing of all participating officers.

7. Reporting

42F-Executing Search Warrants

- a. The case officer shall, thereafter, prepare and submit a report on the warrant service, results of the search, and recommendations for further investigative actions.
 - b. If damage occurs, justification for actions that caused the damage and a detailed description of the nature and extent of the damage shall be documented. Photographs of the damage should be taken where possible.
 - c. A report shall be completed documenting evidence seized and other supporting facts.
8. Return of Service

For return of service guidelines, see Department policy **42E- Search Warrant Affidavits**.

ⁱ M.G.L. c. 276, §2A; M.G.L. c. 276, §3A.