

 NORFOLK <i>Department of Police</i>	Operational General Order - 428: Search Warrants		
	Office of Preparation: Strategic Management Division (ram)		
	CALEA:	1.2.5	
	VLEPSC:	ADM 02.02	
LEGAL REVIEW DATE:	October 8, 2014	PRESCRIBED DATE:	10/17/14
City Attorney:	<i>Wayne Bign...</i>	City Manager/Director of Public Safety:	<i>Manuel...</i>
APPROVED BY THE AUTHORITY OF THE CHIEF OF POLICE:		<i>[Signature]</i>	

Purpose

The purpose of this order is to provide guidelines and procedures for securing and executing search warrants.

Policy

It is the policy of the Norfolk Police Department that the Fourth Amendment of the United States Constitution, the applicable state laws, and the highest standards of personal integrity and professionalism when requesting and executing search warrants shall be the foundation to guide all officers.

Supersedes:

1. G.O. OPR-428, dated May 14, 2009
2. Any previously issued directive conflicting with this order.

Order Contents:

- I. Search Warrant
- II. Affidavit
- III. Preparation
- IV. Execution

I. Search Warrants (VLEPSC: ADM 02.02.d)

- A. Except as provided in § 19.2-56.1, Code of Virginia, search warrants, DC-339, based upon complaint on oath supported by an affidavit, may be issued by any judge, magistrate, or other person having authority to issue criminal warrants, if satisfied from such complaint and affidavit that there is reasonable and probable cause for the issuance of such warrant (§ 19.2-52, Code of Virginia).
- B. A search warrant may be issued for a search of a specific place, thing or person, and seizure of the following things specified in the warrant.
 - 1. Instrumentalities of a crime such as weapons or other objects used in the commission of a crime;
 - 2. Contraband which is articles or things and the sale or possession of which is unlawful such as drugs, alcohol, pornography, etc.
 - 3. Fruits of a crime such as stolen property.
 - 4. Any object, thing, person, including without limitation, documents, books, papers, records or body fluids constituting evidence of the commission of crime, (§ 19.2-53 Code of Virginia.)

II. Affidavit

- A. Prior to the issuance of a search warrant, an affidavit for a search warrant, DC 338, must be filed with a person authorized to issue the warrant. All pertinent facts, including information derived from informants, will be confirmed to the extent possible by the officer requesting the search warrant. The affidavit, given under oath or affirmation, must reasonably describe the place, thing or person to be searched. Material facts must be given, constituting the probable cause for issuance of the requested search warrant.
- B. The affidavit must identify the offense in question and allege that the specified object, thing, or person to be searched for, constitutes evidence of the commission of such offense.

III. Preparation (CALEA 1.2.5)

- A. The officer in charge of the search warrant will ensure that a PD Form 803, Search Warrant Check Off Sheet (Attachment A), is completed and no elements are overlooked.
- B. The Instruction Sheet for the Affidavit for Search Warrant (Attachment B), with the corresponding elements of data listed, will be adhered to in the preparation of the document.
- C. All persons / sources cited anywhere inside the body of the AFFIDAVIT MUST be qualified in paragraph seven (7) of the Affidavit.

- D. After review by the Affiant for Search Warrant, it will be reviewed by a supervisor, (corporal or above) for accuracy and compliance with state code.
- E. After review, the Affidavit for Search Warrant will be submitted to a Magistrate for the issuance of the Search Warrant. The Search Warrant document will be typed by the Magistrate.

IV. Execution

- A. An on-scene supervisor (corporal or above), will be present during the execution of a search warrant. The on-scene supervisor will ensure all documents are properly completed.
- B. A sergeant or above must be present for the execution of a search warrant if an “immediate entry” is planned.
- C. A lieutenant or above must be notified prior to the execution of a search warrant if a “light/sound” device (LSD) is to be deployed unless exigent circumstances present themselves.
- D. The officer-in-charge will designate an evidence collector who will:
 - 1. Properly package, seal, mark or tag each item seized with the date, time, location, and circumstances, which it was seized.
 - 2. Compile a list of all items seized for the Search Inventory and Return section of the Search Warrant.
 - 3. File the inventory of items seized, or notation that nothing was seized with the Circuit Court Clerk’s Office within three working days of the warrants execution.
 - 4. List the evidence and/or property seized on a Property and Evidence Voucher.
 - 5. Maintain custody of the seized items until possession is given over to the Property and Evidence Unit.
- E. Prior to execution of the search warrant all pertinent facts, including information derived from informants, will be confirmed to the best extent possible by the officer requesting the search warrant.
- F. Whenever feasible, execution should be made during daylight hours when officers can be more readily identified. However, to achieve maximum results, the facts and circumstances of each individual case will determine the time of execution.

- G. Police officers must knock and announce their authority and purpose when executing a search warrant. This will be accomplished in a manner loud enough to be heard inside. Officers will knock, identify themselves, announce that they have a search warrant and demand immediate admission to the premises (See G.O. OPR-150, Forced Entry, for further details on entry procedures and exceptions).
- H. The officer-in-charge will explain to any occupants the purpose of the search. Upon termination of the search the place or thing searched will be secured in a manner dictated by the circumstances.
- I. Searches will be conducted in as courteous and non-destructive manner as possible. Any disarray caused by the search team will be minimized before departing the premises.
- J. The officer- in- charge will ensure all personnel understand the scope of the search.
 - 1. A warrant to search an outbuilding would not necessarily authorize the searching of a dwelling. A warrant to search a dwelling would not authorize a search of a vehicle owned by the occupant.
 - 2. The extent of the search is also limited because of the nature of the items sought. A search of a dwelling with a warrant for stolen automobile tires, would not authorize a search of small compartments such as dresser drawers.
- K. If during the search, seizable items that are not listed on the search warrant are discovered, such items may be seized. Items may include, contraband, fruits of a crime, instrumentalities of a crime, or other evidence.
- L. When the items listed in the warrant are found or when it reasonably appears that the items are not on the premise, the search will be terminated.
- M. Search warrants by State Code, 19.2-56, must be executed within fifteen days of issuance or be returned to the original issuing magistrate.

Related Documents

- 1. G.O. ADM-410: Property and Evidence
- 2. G.O. OPR-150: Forced Entry
- 3. G.O. OPR-495: Strip Searches

Attachments

- A. PD Form 803, Search Warrant Check Off Sheet
- B. DC-338, Affidavit for a Search Warrant Instructions Sheet

**SEARCH WARRANT
QUICK REFERENCE CHECK OFF SHEET**

1. Is the execution of the search warrant within the fifteen day time limit? _____
2. Has the information on the affidavit become stale? _____
3. Is the search warrant for an actual offense? _____
4. Ensure the narrative on the face of the affidavit para. 1, 2, 3 (Offense location, what to be searched for) is fully supported in the body of the affidavit (All elements of the crime have been described). _____
5. Is the address proper or the description complete? _____
6. Has the information presented been verified as much as possible? _____
7. Has who, what, when, where, why and how been explained in the material facts (Paragraph 4)? _____
8. Is the search warrant as presented detailed enough? _____
9. Is the proper date and time affixed? _____
10. Has the informant or information been qualified? _____
11. Is the informant's identity properly protected? _____
12. Are all copies signed by the magistrate? _____
13. Are all copies signed by the Affiant? _____
14. Ensure the Search Warrant (which is typed by the Magistrate) is exactly the same as the Affidavit. Ensure original Affidavit stays with the Magistrate and the original Search Warrant stays with Affiant. _____
15. Make sure a copy of the warrant and affidavit are given to suspect or left on premises. _____
16. Ensure proper inventory of any items collected is maintained and transcribed to the back of the original Search Warrant. _____
17. Has the Search Warrant been filed with Circuit Court within three (3) working days after execution of the warrant or decision not to execute? _____
18. If Search Warrant is sealed, notify Magistrate at the time of issuance, then, next business day, notify the appropriate Commonwealth Attorney. _____

Using This Revisable PDF Form

1. Copies
 - a. Original – filed by judicial officer or his designee/agent in the appropriate circuit court clerk’s office where the search is made. Virginia Code § 19.2-54 requires this document to be filed within seven (7) days after issuance of the search warrant.
 - b. First copy – delivered by judicial officer or his designee/agent to the appropriate circuit court clerk's office where the search warrant is issued if different from above.
 - c. Second copy – attached to original of the Search Warrant.
 - d. Third copy – attached to copy of the Search Warrant to be left with custodian of place searched.
 - e. Additional copies to others as dictated by local practice.
2. Prepared by affiant, acknowledged by clerk (if authorized to issue warrants), magistrate or judge. Must be signed and sworn to by the complainant in person. If a law enforcement officer brings in an affidavit signed by a third person, then the law enforcement officer should prepare his or her own affidavit, sign it and swear to it as the affiant.
3. Attachments – form DC-339, SEARCH WARRANT (*see* 1(c) above).
4. Preparation details
 - a. The judicial officer should not become involved in the preparation of this document. However, if the judicial officer believes that the affidavit does not show probable cause, he or she should return the affidavit and should tell the affiant that there is insufficient proof to constitute probable cause and what is generally needed in the case in question to constitute probable cause.
 - b. The judicial officer should not rely on additional oral information provided by the affiant. Instead, the judicial officer should insist that the affiant put this additional information into writing by including this information in the affidavit.
 - c. Law enforcement officer should consult the Commonwealth's Attorney if assistance is needed in preparing this affidavit.

Data Elements, page one

1. Description of offense.
2. Description of what is to be searched.
3. Description of the things or persons sought to be discovered in the search.

To be completed by the clerk:

4. Court case number.

5. Name, official title (if any) and street address of applicant.

To be completed by the magistrate or other judicial officer (or his designee):

6. Name of circuit court to whose clerk this affidavit is certified.
7. Date on which this affidavit is certified with circuit court.
8. Title of person certifying this affidavit with circuit court (printed or typed).
9. Signature of person certifying this affidavit to circuit court.
10. Name of circuit court to whose clerk this affidavit was delivered, and check the appropriate method of delivery.
11. Date on which this affidavit was delivered to circuit court identified in data element No. 10.
12. Title of person delivering this affidavit to the circuit court clerk's office identified in data element No. 10.
13. Signature of person delivering this affidavit to the circuit court clerk's office identified in data element No. 10.
14. Name of circuit court where the warrant is issued if different from data element No. 10. Check the appropriate method of delivery.
15. Date on which a copy of the affidavit was delivered to circuit court identified in data element No. 14.
16. Title of person delivered a copy of the affidavit to the circuit court clerk's office identified in data element No. 14.
17. Signature of person who delivered this affidavit to the circuit court clerk's office identified in data element No. 14.

Data Elements, page two

1. Set of facts that the applicant believes constitutes probable cause for the issuance of a search warrant.
2. Check the appropriate box(es) and fill in the required information.
3. Official title of applicant, if any.
4. Signature of applicant.

To be completed by magistrate or other judicial official:

5. Date that this document is signed and sworn to.
6. Signature of person before whom the affidavit was sworn to. Check the appropriate title box below the signature line.

AFFIDAVIT FOR SEARCH WARRANT
Commonwealth of Virginia VA. CODE § 19.2-54

The undersigned Applicant states under oath:

1. A search is requested in relation to an offense substantially described as follows:

1

[] CONTINUED ON ATTACHED SHEET

2. The place, person or thing to be searched is described as follows:

2

[] CONTINUED ON ATTACHED SHEET

3. The things or persons to be searched for are described as follows:

3

[] CONTINUED ON ATTACHED SHEET

(OVER)

FILE NO. **4**

AFFIDAVIT FOR SEARCH WARRANT

APPLICANT:

5

NAME

TITLE (IF ANY)

ADDRESS

Certified to Clerk of

6

CITY OR COUNTY

Circuit Court

on

7

DATE

8

TITLE

9

SIGNATURE

Original Delivered [] in person [] by certified mail
 [] by electronically transmitted facsimile
 [] by use of filing/security procedures defined in the Uniform Electronic Transactions Act

to Clerk of

10

CITY OR COUNTY WHERE EXECUTED

Circuit Court

on

11

DATE

12

TITLE

13

SIGNATURE

Complete only if different than above:

Copy delivered [] in person [] certified mail
 [] by electronically transmitted facsimile
 [] by use of filing/security procedures defined in the Uniform Electronic Transactions Act

to Clerk of

14

CITY OR COUNTY OF ISSUANCE

Circuit Court

on

15

DATE

16

TITLE

17

SIGNATURE

4. The material facts constituting probable cause that the search should be made are:

1

.....
.....
.....
.....
.....

5. The object, thing or person searched for constitutes evidence of the commission of such offense.

6. I have personal knowledge of the facts set forth in this affidavit AND/OR

I was advised of the facts set forth in this affidavit in whole or in part, by one or more other person(s). The credibility of the person(s) providing this information to me and/or the reliability of the information provided may be determined from the following facts:

2

.....
.....
.....
.....
.....

Attachment B

The statements above are true and accurate to the best of my knowledge and belief.

3

TITLE OF APPLICANT

4

APPLICANT

Subscribed and sworn to before me this day.

5

DATE AND TIME

6

CLERK MAGISTRATE JUDGE