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"INTEGRITY…FAIRNESS…SERVICE"

SPECIAL ORDER #2015-05 **DATE: January 19, 2017**

TO: <u>All Police Department Personnel. To be Announced at Roll Call and a Copy Posted on the Department's Intranet Site.</u>

RE: Addendum to Special Order #2015-05, Search Warrant Risk Assessment.

EFFECTIVE: Immediately.

BACKGROUND: The Tactical Unit has requested a policy be developed that will assist members of the Department in determining when to request their assistance with the service of search and seizure warrants. The development of this policy will ensure that units, teams, and members contact the Tactical Unit Commander prior to serving any search and seizure warrant known to involve an elevated risk. The purpose of this consultation is to determine if the unit, team, or members serving the warrant have the training, skills, and abilities to serve the warrant based upon the known risks.

PURPOSE: To establish procedures for assessing the known risks in serving search and seizure warrants.

RELATIONSHIP TO DEPARTMENTAL VALUES: This program supports the Department's value of ***INTEGRITY, FAIRNESS,*** and ***SERVICE*** by establishing a standard in which officer safety is held to the highest standards possible.

POLICY: It is the policy of this Department to utilize every means possible to ensure officer safety. Every officer obtaining a search and seizure warrant will complete a Form 321A, Search Warrant Risk Assessment, unless the location is already secured, or the vehicle or item to be searched is currently in police custody.

PROCEDURES:

<u>GENERAL</u>

- Circuit Court judges only have jurisdiction to grant search and seizure warrants that are to be executed in Baltimore County, whereas District Court judges have jurisdiction to grant search and seizure warrants that are to be executed throughout the State of Maryland.
- Members applying for a search and seizure warrant will follow the District Court procedures for contacting the on-call judge and never contact judges directly.

<u>OUT-OF-COUNTY SEARCH AND SEIZURE WARRANTS</u>

- Investigating officers applying for a search and seizure warrant will:
  1. Contact the on-call judge through the District Court procedures.
  2. When a Baltimore County Circuit Court judge is on-call, contact the jurisdiction where the warrant is to be executed to have a judge of that jurisdiction sign the warrant.
- If a judge refuses or is unavailable to review and sign the warrant, the officer shall have the 9-1-1 Police Liaison contact the Legal Section Director, or designee, with the following information:
  1. Circumstances of the investigation.

2. Exigency for the warrant.
3. Reason for refusal or unavailability.

- The Legal Section Director, or designee, will determine if a Baltimore County District Court Judge is to be contacted and will notify the officer which judge will review and sign the warrant.

INVESTIGATING OFFICERS

- Applying for a search and seizure warrant will:
  1. Contact the appropriate specialized unit and discuss the investigation for crimes in which a specialized unit has responsibilities, before obtaining the warrant.
     NOTE: The Administrative Vice/Narcotics Team (AVNT) must be contacted prior to the service of a narcotics related search and seizure warrant.
  2. Complete an Application and Affidavit for Search and Seizure Warrant.
  3. Consult with an Assistant State's Attorney, if necessary.
  4. Forward the application to a supervisor for review.
  5. Present the Application and Affidavit to an available judge for signature after receiving supervisory approval.
- Will be responsible for all related necessary deconfliction.
- Make arrangements for service once a judge has signed and approved the Search and Seizure Warrant.
- Complete the applicable portion of a Form 185, Search and Seizure Warrant Tracking Form (original and two copies).
- Obtain a Search and Seizure Warrant Tracking control number from the Information & Records Management Unit prior to completing his/her tour of duty.
- Distribute the Form 185 as noted on the form.

SUPERVISORS

- Must review prior to submission to a judge:
  1. The completed Application and Affidavit for Search and Seizure Warrant.
  2. Informant folders as to personal history and reliability, when applicable.
  3. All search warrant returns for completeness prior to return to the issuing judge.
- Complete a Form 321A, Search Warrant Risk Assessment, to determine if the service of the warrant is low, medium or high risk, and provide that information to the shift/unit commander.
  EXCEPTION: The Form 321A is not required in incidents where the location is already secured, or the vehicle or item (e.g., cell phone, etc.) to be searched is currently in police custody.
- Inform the shift commander, and the precinct commander where the warrant will be executed, prior to serving all "No-Knock" Search and Seizure Warrants.
- Notify the AVNT whenever a Baltimore County police officer is present during the execution of a search and seizure warrant by another law enforcement agency in the County. Notification should take place prior to the execution of the warrant when possible.
- Ensure that a Form 321, Tactical Unit Deployment Request – Pre-planned Operations, is completed if the Tactical Unit is to be utilized for service of the search and seizure warrant.
- Complete a Form 328, Search Warrant Operations/Raid Plan, for service of the search and seizure warrant.
  NOTE: The Tactical Unit will utilize their own raid plan.

SHIFT/UNIT COMMANDERS

- Must review all "No-Knock" search and seizure warrants unless exigent circumstances exist.
- Review the Form 321A and the Form 321.

- Contact the Tactical Unit Commander prior to executing all "No Knock" Search and Seizure Warrants, and/or when the risk factors on the Form 321A are found to be in the medium or high risk category.
- E-mail a copy of the Forms 321 and 321A to the Tactical Unit Commander.

TACTICAL UNIT COMMANDER

- Reviews all Forms 321 and 321A.
- Discusses the search warrant risk assessment with the shift/unit commander to determine who will serve the search warrant.
  NOTE: The commanders will come to an agreement concerning who will serve the warrant prior to its service.
- Maintains a file of Forms 321A for three years.

FORM 321 AND FORM 321A DISTRIBUTION

- Original – forwarded to the Tactical Unit.
- Copy – placed in the search warrant case file.

SERVICE REQUIREMENTS

- A uniformed officer will be present.
- A supervisor will be present and will conduct a raid briefing prior to service.
  NOTE: The briefing will go over the Form 328, crime, service location, safety concerns, nearest medical facility, lineup entry, and responsibilities.
- Officers executing a search and seizure warrant must knock and announce their authority and purpose prior to making entry unless exigent circumstances develop at the time of service.
- Details justifying any "No-Knock" entry will be documented on an Incident Report or an Incident Supplement.
- A copy of the warrant, application, affidavit, and an inventory of goods seized will be given to the person in charge at the premises. If no such person is available, the forms will be left in a conspicuous location.
- A search and seizure warrant is null and void if:
  1. It is not served within 15 calendar days from the date of issuance.
  2. The facts supporting probable cause become stale or vanish prior to the expiration of the warrant.

NO-KNOCK SEARCH AND SEIZURE WARRANT

- The law requires that officers knock and announce their authority and purpose prior to executing a search and seizure warrant, unless exigent circumstances exist.
- The law permits "No-Knock" Search and Seizure Warrants when officers can articulate exigent circumstances with specific facts that provide reason to believe:
  1. Officer safety is at risk; or
  2. Other persons are in danger of imminent harm; or
  3. Evidence will be destroyed.
- Any officer notified to assist in the execution of a "No-Knock" Search and Seizure Warrant shall notify his/her supervisor of the request.
- Investigating officers applying for a "No-Knock" Search and Seizure Warrant, in addition to the previous provisions, will:
  1. Apply for a "No-Knock" warrant only when articulable exigent circumstances exist.
  2. Obtain permission from his/her supervisor prior to application.
  3. Include specific details in the Application and Affidavit and police reports that justify the need for a "No-Knock" Search and Seizure Warrant.
- The Application, Affidavit, and Search and Seizure Warrant must have the words "No-Knock" in their titles.

- The serving officer and on-scene supervisor will evaluate the circumstances existing at the time of service and determine if a “No-Knock” entry remains warranted. If exigent circumstances no longer exist, the serving officer must knock and announce his/her authority and purpose.

WARRANT RETURN

- The warrant return must occur within 10 days of either expiration or service of the warrant.
- A Form 133, Search Warrant Return, must be completed and forwarded, along with the warrant, to the issuing judge by the affiant officer, if possible.
- Prior to returning a search and seizure warrant, investigating officers must complete the remaining portion of the Form 185 and distribute as noted on the form.

COMMANDER OF INVESTIGATING UNIT

- Retains a copy of the Form 185 for one year.

INFORMATION & RECORDS MANAGEMENT UNIT

- Establishes and maintains a Search and Seizure Warrant Tracking Control Number Logbook, containing the following information:
  1. Control Number.
  2. Date and time the number was obtained.
  3. Central Complaint (CC) number.
  4. Precinct/unit obtaining the number.
  5. Type of case.
  6. Date and time warrant is served.
- Contacts the commander of the unit obtaining the warrant when the Form 185 has not been received within 20 days of a control number being issued.
- Retains the Form 185 for one year.

IMPLEMENTATION: This addendum to Special Order #2015-05 supersedes the procedures in Field Manual, Article 7, Section 14.0, Search and Seizure Warrants, and Special Order #2015-05. This Special Order addendum will be distributed electronically to all Department members. Shift/Unit supervisors will be responsible for the posting and referencing of this Special Order.

By order of,

James W. Johnson
Chief of Police