

<b>FAIRFAX COUNTY POLICE DEPARTMENT</b>    <b>GENERAL ORDER</b>	SUBJECT: <b>SEARCH WARRANT PROCEDURES</b>		NUMBER: <b>613</b>
	EFFECTIVE DATE: April 21, 2023	REVIEW: April 2026	
RESPONSIBLE ENTITY: Major Crimes Bureau			<input type="checkbox"/> New Directive <input checked="" type="checkbox"/> Replaces: 611 <input type="checkbox"/> Revised
ACCREDITATION STANDARDS	CALEA: 74.3.1		
	VLEPSC: ADM.02.02, OPR.12.04		

I. PURPOSE

The purpose of this General Order is to outline responsibilities and procedures for all officers in the execution of search warrants.

II. POLICY

It is the policy of the Fairfax County Police Department (FCPD) to utilize search warrants in order to aid criminal investigations in the recovery of evidence, contraband, and/or stolen property. Search warrants shall only be utilized where probable cause exists to recover these items from a location or individual, and in a manner that complies with both judicial and Department expectations. Officers shall comply with all legal requirements whenever obtaining search warrants and utilize appropriate risk assessment and mitigation measures as applicable.

III. DEFINITIONS

- A. Abode: A location where an individual dwells, including shelters and vehicles.
- B. Affidavit: Written and presented statements made under oath or affirmation.
- C. Court Order: Judicial directive issued by a judge towards an individual.
- D. Exigent Circumstances: Those circumstances that would cause a reasonable person to believe that entry or other prompt action was necessary to prevent physical harm to an officer or another individual, the destruction of relevant evidence, the potential escape of a suspect, or some other consequence that would unlawfully frustrate legitimate law enforcement efforts.

- E. High-Risk Search Warrant: A search warrant that presents increased risk to any officer or individual and necessitates the use of advanced tactics and personnel as approved by the Department.
- F. Judicial Officer: An officer of the court, to include a judge or magistrate, who has the authority to issue a warrant.
- G. No-Knock Search Warrant: A search warrant authorizing police officers to enter a premises without first knocking and announcing their presence and/or purpose.
- H. Real-Time Location Data: Data or information pertaining to the location of an electronic device that, in whole or in part, is generated, derived from, or obtained by operation of the device. Also known as a “cell phone ping.”
- I. Search Warrant: Legal document predicated upon probable cause that authorizes a law enforcement officer to enter and search a specific location, object, or thing.
- J. Tactical Analysis Worksheet: Form that is completed as necessary after completion of a Warrant Risk Assessment Matrix.
- K. Third-Party Residence: Residence of a person not named in a warrant.
- L. Tracking Device: Electronic or mechanical device that tracks position or real-time movement of an individual or object. Includes devices that store geographic data for access and analysis.
- M. Warrant Risk Assessment Matrix: Form that serves as a guide to determine necessary resources to mitigate or minimize risks of executing a search warrant.

#### IV. GENERAL PROCEDURES AND RESPONSIBILITIES

- A. **Officer and Detective Responsibilities**: Investigating officers and detectives who seek search warrants in furtherance of their investigations shall be responsible for drafting, accuracy, and execution of the search warrant under the review and approval of their supervisor. Any officer/detective conducting surveillance or reconnaissance on a target location shall have that location confirmed that the location they are monitoring is in fact, the target location. The accuracy of the location to be searched, to include physical address and description of the location, shall be personally observed and confirmed by a supervisor prior to seeking a search warrant from a Magistrate and all reasonable measures shall be taken to establish ownership, occupancy, and acquisition of an interior and exterior description of the site. Seeking officers and supervisors

shall physically observe the location to be searched to confirm the accuracy of the search warrant and shall never rely upon online/digital resources (ex: Google Earth, Zillow, etc.) to confirm the accuracy of a search warrant.

Where a lead officer/detective has been the victim of a crime (ex: assault, brandishing, etc.), or has been exposed to a potentially traumatic incident leading up to the seeking of a search warrant, reviewing supervisors shall consider using an assisting and directly observing officer/detective in place of the lead officer/detective. Once a search warrant is approved and signed, lead officers and detectives shall be responsible for the following:

1. **Preliminary Briefing:** Lead officers or detectives shall conduct a briefing prior to execution of the search warrant with all search team members present. The briefing shall include (1) review of site characteristics, (2) a description of potential occupants and any associated dangers they may pose, to include the presence of domesticated animals, (3) a description of the sought items at the search site and any possible locations, (4) assignment of responsibilities for all search team members, and (5) a review of the facts of the case.
2. **Documentation:** Lead officers or detectives shall ensure all pertinent events that occur during search warrant execution are properly documented into an incident report in the current Records Management System (RMS).
3. **Legal Requirements:** Lead officers or detectives shall ensure their search warrant complies with all legal procedures, noting some sites have additional protections such as [attorneys' offices](#) and [medical or treatment facilities](#).

B. **Warrant Risk Assessment Matrix:** A Warrant Risk Assessment Matrix (WRAM) shall be completed in accordance with FCPD [SOP 18-057](#) for all operational search warrants and submitted by lead officers or detectives to their supervisor for review. Upon review, supervisors shall forward WRAMs to their commander for final review and approval. Commanders shall assess and determine what resources are needed to execute the warrant. Where the Special Weapons and Tactics (SWAT) unit is required, coordination shall be conducted between the requesting commander and the commander of the Special Operations Division (SOD). Upon completion of the WRAM, it may become necessary to complete the Tactical Analysis Worksheet (TAW) (See FCPD [SOP 18-057](#)) and consult further with the SOD.

C. **Time of Execution of Search Warrants:** Search warrants for any place of abode shall only be executed between the daytime hours of **0800 and 1700**. Exceptions to this requirement include the following:

1. **Judge or Magistrate:** Judges or magistrates may authorize execution of the search warrant at another time where an officer shows good cause in their affidavit. Per the [Code of Virginia](#), officers must attempt to seek authorization from a judge first before seeking authorization from a magistrate in these cases (and document their efforts in their affidavit). In circumstances where a search warrant is sought after 1700 hours (after traditional business hours), the seeking officer may seek magistrate approval first.
  2. **Prior Entry:** Officers who have lawfully entered, secured, and remained continuously at the place to be searched may execute search warrants at any time.
- D. **No-Knock Search Warrants:** Per the [Code of Virginia](#), officers are strictly prohibited from seeking, executing, or participating in no-knock search warrants.
- E. **Driving While Intoxicated or Under the Influence of Drugs:** Officers who investigate Driving While Intoxicated (DWI) or Driving Under the Influence of Drugs (DUID) cases shall refer to the Operations Support Bureau (OSB) DUI Investigation Reference Manual for guidance on search warrant procedures for blood evidence.
- F. **Electronic Devices:** Search warrants for electronic devices, to include but not be limited to, cell phones, computers, and thumb drives, shall be conducted in accordance with guidelines and best practices published by the FCPD Digital Forensics Section (DFS). DFS shall review and update these guidelines in a timely manner based upon changes in technology, case law, and/or federal or state statute, and post informational alerts to the Department accordingly.
- G. **Exigent Circumstances and Crimes of Violence:** Where exigent circumstances exist, or during investigations involving violent offenses and due to the inherently volatile nature of digital evidence, officers may seek the retrieval of digital information expeditiously. Where this occurs, and with the concurrence of the acting Duty Officer, a supervisor or detective shall contact the on-call DFS supervisor for guidance. Detectives may then secure the required data from the device in anticipation of a search warrant being issued.
- H. **Search Warrant Preparation:** Search warrants shall state the crime and Code of Virginia sections for which it was obtained. Issuing magistrates shall retain the original copy of the affidavit at the time of issuance and a copy of the search warrant and affidavit shall be made to provide to the appropriate individual at the search location.

- I. **Promptness in Execution:** Search warrants shall be served in a timely manner and no later than fifteen (15) days of issuance. Delays in execution of search warrants shall only be for reasonable law enforcement concerns. Any search warrant not executed within 15 days of issuance shall be voided by the seeking officer or detective who authored the warrant and returned to the Clerk of the Fairfax County Criminal Circuit Court.
  
- J. **Presence of Uniformed Officers:** A uniformed officer shall be present at execution of all search warrants involving an abode. The officer shall wear their Department-issued patrol uniform, to include patrol uniform shirt, with a clearly visible badge and FCPD insignia patches that indicate they are a law enforcement officer.
  1. **High-Risk Search Warrants:** SWAT and Street Crimes Unit (SCU) officers may wear uniforms authorized by the Chief of Police for operations that fall within their purview. Uniforms shall be clearly marked with “**POLICE**” placards, display a badge of authority and FCPD sleeve patches, and be identifiable as police uniforms. Whenever SWAT or SCU constitute the primary entry team in a search warrant, a uniformed officer shall be present for execution.
  
  2. **Low-Risk Search Warrants:** Non-uniformed detectives shall ensure that at least one patrol-uniformed officer is present for service of low-risk search warrants. The uniformed officer shall knock and announce in order to be recognizable and identifiable for occupants of the abode and participate in execution of the search warrant documents.
  
- K. **Required Notifications:** First-line supervisors shall be responsible for the following notifications prior to execution of all operational search warrants:
  1. Duty officer, Police Liaison Commander (PLC), and the affected district station commander, first-line supervisor(s), and Criminal Investigations Division (CID) supervisor. Supervisors shall ensure through DPSC that a radio channel is cleared until the site is secured.
  
  2. The Commander of the Helicopter Division or their designee shall be notified of the location of operational search warrant execution sites. If requested by a supervisor, the helicopter may be airborne during execution of the warrant.

## V. EXECUTION OF SEARCH WARRANTS

- A. **Evaluation of Search Site:** Prior to execution of the search warrant, first-line supervisors and lead officers and detectives shall ensure the premise or vehicle to be searched are identical to the premise or vehicle listed on the warrant. Where any discrepancy is noted, or conditions are deemed not safe for reasons that cannot be mitigated, the warrant shall not be executed and entry not made.
- B. **Documentation:** A member of the search team shall be designated as a recorder and will document the entire execution of the search warrant. This shall include the time of approach to the site and time departed, identity of all members of the search team, the uniformed officer, occupants at the search site, items seized, and any other pertinent information. This record shall be retained with the case file and uploaded into the incident report in the current RMS.
- C. **Positioning of Entry Team:** Entry team members shall position themselves in accordance with their training and pre-execution briefing assignments. SWAT supervisors shall take the lead and coordinate positioning of all team members whenever SWAT is involved in search warrant execution, and entry team member shall enter until authorized to do so by the SWAT supervisor.
- D. **Announcement of Authority, Identification, and Purpose:** All members of the entry team shall be recognizable as law enforcement officers. Officers should provide clear, audible notice of their authority and purpose in a manner reasonably designed to be heard by any occupants in the building prior to making entry. Whenever possible, the uniformed officer should be the entry team member to make the knock and announcement.
- E. **Delay Following Announcement:** Where items sought to be recovered are readily disposable, the entry team shall delay entry for a minimum of twenty (20) seconds prior to making entry. If the items sought to be recovered are not readily disposable, the entry team shall delay entry for a minimum of sixty (60) seconds following announcement.
- Note:** If the entry team is admitted into the site by an occupant, or there is substantial and articulable indication there is a willful delay by the occupant(s) inside the premise to respond to the announcement, the time delay requirement is not required.
- F. **Immediate Entry:** After officers/detectives make the required knock and announcement, and there is reasonable suspicion that one or more of the following conditions exist, officers may make immediate entry into the premises:

1. Belief that an occupant of the premises is armed and/or dangerous or information exists that an occupant has a history of violence involving threats or attacks on other individuals and thus it may be reasonable to conclude the occupant may respond to the knock and announcement with violence.
2. Belief that an occupant may purposefully frustrate the search by destroying sought items following the knock and announcement.
3. Information developed at the time of knock and announcement that any occupant(s) are endangered by other occupants inside.

G. **Seizure of Items Inadvertently Found:** Where items of contraband unrelated to the stated purpose of a search warrant are discovered in any area of the premises where an officer has a lawful right during the execution of a search warrant, those items may be seized and secured as evidence in furtherance of, or pursuant to, an additional crime. Where an officer develops probable cause to believe that an item of contraband resides in an area not permitted to be searched per the language of the search warrant, they may apply for a second search warrant in order to retrieve the item(s) absent owner consent.

H. **Corporations:** Officers shall conduct all search warrants for records or other information pertaining to a subscriber or customer of an electronic communication service or remote computing service, whether a foreign or domestic corporation, or a financial institution, commercial business providing lines of credit, etc. in strict accordance with the [Code of Virginia](#).

## VI. ENTRY PROCEDURES

- A. **Preservation of Property:** Whenever possible, premises shall be entered in a non-destructive and courteous manner. Force shall not be used against occupants unless objectively reasonable under the circumstances in accordance with [FCPD General Order 540](#), Use of Force.
- B. **Delivery of Search Warrant and Affidavit:** Upon entering and securing the place to be searched, the lead officer or detective shall provide a copy of the search warrant and affidavit to the person or owner of the place to be searched, or at least one adult occupant if the owner is not present, unless the affidavit has been sealed per the [Code of Virginia](#). Where the premises is unoccupied, the lead officer or detective shall leave or affix a copy of the search warrant and affidavit in a conspicuous place at the site.
- C. **Vacant or Unoccupied Search Sites:** Entry into vacant or unoccupied premises shall only be permissible if (1) the occupant(s) will not be returning to the

property for an extended period of time (if at all), or (2) the investigation would be unduly hampered should the premises not be searched, or (3) executing the search warrant at another time would cause substantial disruption or strain to police operations. If entry into a vacant site is to be attempted, officers should attempt to locate a key. Knock and announcement procedures shall still apply where a site is believed to be unoccupied.

## VII. INDIVIDUALS WITHIN THE PREMISES

- A. **Courtesy and Respect:** Occupant(s) of a premise to be searched shall be treated with all reasonable means of courtesy and respect.
- B. **Arrests and Searches of Occupants:** An individual's presence at a search site does not provide legal basis to search them unless the search warrant specifically provides that authority. If probable cause is developed to arrest an individual during a search warrant, they shall be searched incident to arrest.
- C. **Frisks of Occupants:** Occupant(s) within the premises to be searched at the time a search warrant is executed, or any individual who enters the site once the search has commenced, may be frisked whenever an officer or detective has reasonable, articulable suspicion, that the individual is armed and dangerous. Mere presence at the location does not constitute a legal basis to frisk an individual.
- D. **Restricting Movement of Individuals:** Any individual present at the site to be searched may have their freedom of movement reasonably restricted to prevent possible interference with the search and protect the search team. This restriction shall be limited to the time needed to ensure scene security, and individuals who are not under arrest shall be permitted free movement as soon as reasonably practical where no evidentiary or safety interest is at risk.
- E. **Third-Party Residences:** Where officers have probable cause to believe that either a wanted person, or respondent of an emergency custody or temporary detention order is inside a third-party residence, and are denied consensual access to that residence, they should secure the perimeter of the location and request a supervisor to respond in order to obtain a search warrant prior to searching the premises. This requirement does not restrict an officer from entering into the premises pursuant to a lawful exception to the search warrant requirement (ex: exigent circumstances, hot pursuit), or where they receive valid consent to enter the location. Officers shall document the reason(s) for entering into any residence without a search warrant in an incident report.

## VIII. AFTER-ACTION REPORTS

- A. **Damaged Property:** Where damage occurs to property during execution of a search warrant, a supervisor shall assess the need to protect the search site until repairs can properly be made and if needed, assign personnel to protect the property until it can be secured. All damage that occurs during entry or service of the search warrant shall be documented by a supervisor in the Citizens Damage Report Supplement in the current RMS and forwarded to the Fairfax County [Risk Management Division](#) (RMD) by the end of the documenting supervisor's shift.
- B. **Warrant Return:** Once the search has concluded, the lead officer or detective shall be responsible for returning the warrant to the issuing authority within seventy-two (72) hours (Not counting Saturdays, Sundays, and state/federal holidays). All seized items shall be listed and sworn to under oath in an attached inventory sheet that is returned to the issuing court. Where no items are seized, a statement to that effect shall be filed with the court where the warrant was issued within 72 hours. Copies of all executed search warrants, affidavits, and lists of seized items shall be provided to the Public Affairs Bureau (PAB) unless the warrant is sealed.
- C. **Sealing of Search Warrant:** Where it is determined that a search warrant shall be sealed, the lead officer or detective shall consult with the Office of the Commonwealth's Attorney. Where a sealed search warrant has expired, the lead officer or detective shall be responsible for forwarding a copy to PAB.
- D. **Non-Contraband Items:** Non-contraband items seized during search warrant execution that are no longer required for prosecution shall be returned to the owner upon approval of the Office of the Commonwealth Attorney.
- E. **Documentation:** All search team members shall document their actions during execution of a search warrant in an incident report or supplement in the current RMS at the conclusion of the search.

## IX. TRACKING DEVICES

- A. The officer or lead detective for a case necessitating the use of a tracking device may apply for a search warrant in the jurisdiction where the device will be installed, or the jurisdiction where the offense has or will be committed. Installation and use of tracking devices shall be in coordination with and at the direction of, the Technical Investigations Unit (TIU) supervisor.
- B. **Affidavit Requirements:** Search warrant affidavits for tracking devices shall include, in addition to any other required information, (1) the identity of the

applicant (lead officer/detective) and agency conducting the investigation, (2) the identity and owner/possessor (if known) of the vehicle or thing to which the tracking device will be affixed and jurisdiction where the item is expected to be found (if known), (3) material facts constituting probable cause alleging the offense in relation to the tracking device used, that the information obtained will likely be evidence of the commission of the offense, and the name of the jurisdiction in which the offense has or will be committed.

C. **Duration of Tracking:** Issued search warrants will authorize installation of the tracking device within fifteen (15) days, and use of the device for no more than thirty (30) days from issuance. Officers may seek extensions that do not exceed 30 days each from the Circuit Court. The search warrant, affidavit, return, and all related materials shall be sealed by the court.

D. **Removal of Tracking Device:** Within ten (10) days after the use of the tracking device has ended, the device shall be removed. Where extenuating circumstances prevent removal, the court may grant 10 day extension(s) for removal. Where the officer cannot remove the device, they must disable and cease use of the device. Within 10 days of cessation of use of the device, officers shall return the executed search warrant to the issuing court and serve a copy of the executed search warrant upon the person or owner of property that was tracked. Service shall be performed in accordance with the [Code of Virginia](#).

X. **CONTENT OF ELECTRONIC COMMUNICATIONS AND LOCATION DATA FROM THIRD-PARTY PROVIDERS**

A. Per the [Code of Virginia](#), officers may obtain real-time location data, to include historic location data and real time “ping” data from third-party service providers, without a warrant under any of the following circumstances:

1. When responding to a user’s call for emergency services.
2. With consent of the owner or user if the device is in their possession, in the possession of an employee or agent, or has been taken within the owner or user’s consent.
3. With consent of the legal guardian or next of kin of the owner or user if that individual is believed to be deceased, missing, or unable to be contacted.
4. To locate abducted, missing, or endangered children.

5. Where the officer reasonably believes disclosure of such data is necessary to address an emergency constituting imminent danger to a person and a warrant cannot be obtained in time to prevent the danger.
- B. Lead officers or detectives conducting an investigation who seek real-time location data (cell phone “pings”) shall coordinate with DPSC and complete a sworn written statement using the [Affidavit For Real-time Data Form](#) that clearly articulates the need for the data. The form shall be filed with the Clerk of the Circuit Court within three (3) business days and scanned and attached into an incident report in the current RMS.
- C. Absent consent or emergency circumstances as outlined above; a search warrant shall be obtained. The lead officer or detective who seeks cell location or electronic communication content (ex: texts) shall use District Court forms [DC-308](#) and DC-309 for the affidavit and search warrant and comply with all service, filing, and Department notification requirements as with other search warrants.

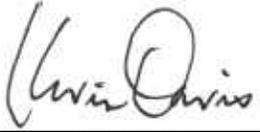
## XI. LEGAL REFERENCES

- A. [Va. Code Ann. § 19.2-52](#); When search warrant may issue.
- B. [Va. Code Ann. § 19.2-53](#); What may be searched and seized.
- C. [Va. Code Ann. § 19.2-53.1](#); Taking blood samples pursuant to search warrant; immunity.
- D. [Va. Code Ann. § 19.2-54](#); Affidavit preliminary to issuance of search warrant; general search warrant prohibited; effect of failure to file affidavit.
- E. [Va. Code Ann. § 19.2-55](#); Issuing general search warrant or search warrant without affidavit deemed malfeasance.
- F. [Va. Code Ann. § 19.2-56](#); To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.
- G. [Va. Code Ann. § 19.2-56.1](#); Warrant issued for search of attorney's office.
- H. [Va. Code Ann. § 19.2-56.2](#); Application for and issuance of search warrant for a tracking device; installation and use.
- I. [Va. Code Ann. § 19.2-57](#); Execution and return of warrant; list of property seized.

- J. [Va. Code Ann. § 19.2-58](#); Disposition of property seized.
- K. [Va. Code Ann. § 19.2-59](#); Search without warrant prohibited; when search without warrant lawful.
- L. [Va. Code Ann. § 19.2-60](#); Motion for return of seized property and to suppress.
- M. [Va. Code Ann. § 19.2-60.1](#); Use of unmanned aircraft systems by public bodies; search warrant required.
- N. [Va. Code Ann. § 19.2-70.3](#); Obtaining records concerning electronic communication service or remote computing service.
- O. [Title 42 Code of Federal Regulation \(42 CFR\), Part 2, \(Specifically 2.65\)](#); Procedures and criteria for orders authorizing disclosure and use of records to criminally investigate or prosecute patients.
- P. [Terry vs. Ohio](#), 392 U.S. 1 (1968)
- Q. [U.S. vs. Banks](#), (02-473) 540 U.S. 31 (2003)
- R. [U.S. vs. Singleton](#), 441F. 3d 290 (2006)
- S. [Richards vs. WI](#), 520 U.S. 385 (1997), US Supreme Court
- T. [Carpenter vs. U. S.](#), 138 S. Ct. 2206 (2018), US Supreme Court

General Order 613 becomes effective on the above date and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:



\_\_\_\_\_  
Chief of Police

APPROVED BY:



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County Executive