

P.G. 212-75 Search Warrant Applications

Date Effective: 10-16-13

PURPOSE

To apply for a search warrant based on timely and accurate intelligence.

DEFINITION

SEARCH WARRANT - a court order and process directing a police officer to conduct a search of designated premises, or of a designated vehicle, or of a designated person, for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant. A search warrant may also authorize the search of a designated premises for a person who is the subject of an arrest warrant. This procedure is intended to apply, however, only to search warrants that authorize a search for property.

SEARCH WARRANT APPLICATION - comprised of two documents:

- a. SEARCH WARRANT which is typically a one page form that describes the location to be searched and items to be seized; and
- b. SEARCH WARRANT AFFIDAVIT which is a sworn, detailed, written statement by the police officer asserting that certain facts exist that the applicant believes establish probable cause that the place to be searched contains particular contraband or evidence.

NOTE: The Criminal Procedure Law lists the following categories of property as subject to seizure pursuant to a search warrant:

- a. Stolen property
- b. Unlawfully possessed or contraband
- c. Used or possessed for the purpose of committing or concealing a crime
- d. Evidence, which tends to demonstrate that an offense was committed or that a particular person participated in the commission of an offense.

PROCEDURE

When a uniformed member of the service has established probable cause to believe that seizeable property is present at a particular location:

UNIFORMED MEMBER OF THE SERVICE

1. Confer with immediate supervisor and commanding officer.
2. Conduct interviews, collect statements and obtain all other evidence that is to be presented when applying for a search warrant.

NOTE: All members of the service prior to applying for a search warrant must conduct a Secure Automated Fast Event Tracking Network (SAFETNet) check. After check is completed, a SAFETNet control number will be given to the requesting

member of the service. The District Attorney's Office will NOT process a search warrant application without a SAFETNet control number and an Intelligence Data System (IDS) record number.

SUPERVISOR CONCERNED

3. Investigate the target location:

- a. Conduct reconnaissance and surveillance
- b. Verify the target location by photo, diagram or other means.

4. Evaluate, confirm and document all information gathered prior to being submitted to commanding officer for approval.

NOTE: When probable cause for a search warrant is based on information from confidential informants/civilian witnesses the immediate supervisor of the member of service will personally witness the interview and verify the target location with the informant by photograph, diagram or other means. In addition, the supervisor witnessing the interview of the informant will ensure that information regarding any other criminal matter known to the informant is also elicited in accordance with P.G. 212-68 "Confidential Informants."

Members of the service must make every effort to corroborate information provided by informants through reconnaissance, surveillance and records checks. The Legal Bureau may be consulted for advice and guidance.

5. Prepare a report on Typed Letterhead addressed to the commanding officer, command concerned and include:

- a. The background checks performed via computer/other means on confidential informants and subjects (see ADDITIONAL DATA section, "Background Checks Which Must Be Conducted Prior To The Execution Of A Search/Arrest Warrant").
- b. Any circumstances that suggest that the search warrant must be executed as soon as possible (e.g., a large cache of firearms or drugs is present and is about to be moved).
- c. Results of reconnaissance and verification of the target location and methods used (e.g., photo, diagram, or other means).
- d. Indication that, if a confidential informant/civilian witness provided any aspect of probable cause, a supervisory officer personally witnessed the interview. Ensure that the informant/witness is not identified by name.
- e. Justification for any request for nighttime or "no-knock" authorization.
- f. Any other pertinent information.

COMMANDING OFFICER CONCERNED

6. Review the supervisor's report, compare it with all information gathered during the search warrant application process and include report in investigative file.

7. Give special scrutiny to cases where probable cause has been established based on the statements of a confidential informant/witness, and:

- a. The contraband/subject in question was not actually observed.
- b. Several days have elapsed since contraband/subject was observed.
- c. The confidential informant has been registered on an emergency/contingency basis and is citing exigent circumstances requiring an immediate response from the police.

8. Forward all information to the Borough Executive Officer/counterpart (e.g.; Narcotics Borough Executive Officer, Detective Borough Executive Officer, Patrol Borough Executive Officer, etc.) concerned for review. NOTE: If the borough executive officer is unavailable, information will be forwarded to the borough commanding officer. When exigent circumstances exist, duty chief may be contacted for approval.

BOROUGH EXECUTIVE OFFICER/COUNTERPART

- 9. Confer with the commanding officer, command requesting the warrant.
- 10. Evaluate all information pertaining to the request for a search warrant and indicate one of the following by endorsement:
 - a. Grant permission to apply for search warrant; OR
 - b. Return search warrant request for further development; OR
 - c. Disapprove search warrant request.

NOTE: If warrant is to be executed by a Patrol Services Bureau command in another patrol borough, the approval of both borough commanding officers is necessary. When a command in any other bureau is applying for a search warrant to be executed in another jurisdictional borough, the executive officer/counterpart of that borough must be consulted with, e.g., Manhattan North Narcotics applying to execute a search warrant in the Bronx, the executive officer/counterpart of Manhattan North Narcotics will consult with the executive officer/counterpart of Bronx Narcotics.

For investigations under the purview of the Internal Affairs Bureau and the [I.O. 1-5 c.s. 11] Deputy Commissioner Counterterrorism, SAFETNet inquires and/or conferrals with other units, commands, or agencies will be conducted in a manner prescribed by the Chief of Internal Affairs or Deputy Commissioner, Counterterrorism, as appropriate, so as not to compromise internal or sensitive investigations.

In all cases, specialized units such as the Narcotics Division, Firearms Investigation Unit, etc. will be conferred with prior to the execution of a warrant when the subject of the warrant falls within their functional jurisdictions.

COMMANDING OFFICER CONCERNED

- 11. File folder at command if disapproved.
- 12. If returned for further development, comply with instructions of borough executive officer/counterpart.
- 13. If approved, prior to contacting county District Attorney's Office to apply for the search warrant, ensure that the WARRANT TRACKING SYSTEM- PRE-

WARRANT DATA ENTRY (PD374-143) has been prepared and faxed to the Intelligence Bureau, Public Security Section for input into the centralized search warrant database; AND, obtain an IDS record number. (See ADDITIONAL DATA section "Notification to Intelligence Bureau, Public Security Section" for special procedures and exceptions.

a. Confirm receipt of WARRANT TRACKING SYSTEM-PRE-WARRANT DATA ENTRY by the Intelligence Bureau, Public Security Section by telephone.

NOTE: The District Attorney's Office will NOT process a search warrant without a SAFETNet control number and an IDS record number.

14. After obtaining a SAFETNet control number and an IDS record number from the Intelligence Bureau, Public Security Section, direct member concerned to contact the District's Attorney's Office for preparation of the Search Warrant Application if approved at borough level.

a. If application is disapproved by the District Attorney or court, endorse Typed Letterhead (prepared as per step 5) to the borough executive officer /counterpart and include in endorsements reasons for disapproval and file a copy in command.

b. Notify the Intelligence Bureau, Public Security Section by telephone for inclusion of the details regarding the disapproved Search Warrant Application in the citywide database.

c. If approved by District Attorney, comply with provisions of [P.G. 212-105](#), "Search Warrant Execution."

NOTIFICATIONS TO THE INTELLIGENCE BUREAU, PUBLIC SECURITY SECTION

ADDITIONAL DATA

The notification to the Intelligence Bureau, Public Security Section shall apply to all units obtaining search warrants (Patrol Services, Detective Bureau, O.C.C.B., Joint Task Forces, etc.). However, should a specific legal concern arise with respect to entering search warrant information into the database, the member concerned shall confer with the Legal Bureau prior to contacting the Intelligence Bureau, Public Security Section. In the event the advice is provided by the Legal Bureau not to make data entry, such consultation shall be noted in the case file along with the specific basis for the advice, e.g., Grand Jury action. Additionally, in situations where a search warrant is based on extremely sensitive information, e.g. counterterrorism, internal investigations, etc., in order to exclude the search warrant from inclusion in the database, the member of the service must receive written permission from the Bureau Chief/Deputy Commissioner concerned. This documentation will be included in the case file.

In instances where a member of this Department, assigned to specialized units including but not limited to a Joint Task Force or a District Attorney's Squad, may participate in the execution of a search warrant but not be an affiant to a search warrant application affidavit, such member is required to follow the contents of this procedure. If a member of this Department, assigned to a Joint Task Force, etc., is directed by a supervisor from another agency not to make the notifications required by this directive, such member shall immediately notify the Bureau Chief/Deputy Commissioner concerned.

BACKGROUND CHECKS WHICH MUST BE CONDUCTED AS PART OF THE SEARCH WARRANT

APPLICATION PROCESS:

Secure Automated Fast Event Tracking Network (SAFETNet) - SAFETNet alerts investigators to any active or open cases either at the target location or involving the target subject which are being conducted by other law enforcement personnel. If a SAFETNet check shows another investigation at the location, a conferral with the investigating unit should be made, and investigative information garnered by the requestor passed on to that unit.

NARCOTICS INVESTIGATIVE TRACKING OF RECIDIVIST OFFENDERS (NITRO) - lists persons arrested within the location or area for narcotic related offenses. Nitro also reveals any active or closed kites at the location. An original copy of the COMPLAINT REPORT (PD 313-152) can be obtained at the Field Operation Desk.

COMPUTER CRIMINAL HISTORY (CCH) - more commonly known as a "rap sheet". The CCH can be obtained from various sources: NYSPIN, Enforcer 2000 terminal, Department of Criminal Justice Services, preparing and submitting a REQUEST FOR RECORDS CHECK (PD 349-161) to the Identification Section.

COMPUTER ASSISTED ROBBERY SYSTEM (CARS) - this system searches Index Crime Complaints, State Parole, City and State Corrections, Warrant Cards, Nickname file, and Career Criminals.

BETA - system utilized to verify New York City criminal records dating back to the early 1960's including persons fingerprinted in New York City criminally and civilly, such as pistol permits, and police/correction applications.

AUTOMATED DB2 WARRANT SYSTEM (REPLACED WARG/WOLF) - reveals persons who have active warrants and the status of the warrant investigation.

COURT RECORD INFORMATION MANAGEMENT SYSTEM (CRIMS) - this system verifies active court cases and the scheduled appearances of a defendant. It informs personnel whether a subject is incarcerated or released.

DEPARTMENT OF MOTOR VEHICLES (DMV) - will provide a motorist and vehicle history.

SPRINT - a check of this system will list all calls for service at the location in question for a specific time period.

PHOTO IMAGING MODULE (PIM) - allows the investigator to obtain photo identifications of suspects at the location of the search warrant.

COMPLAINT ADDRESS TRACKING SYSTEM (CATS) - system designed to ascertain if anyone residing at the subject location has reported offenses (COMPLAINT REPORTS) to this Department.

WARRANT INQUIRY (WINQ) - ascertains if an individual may be wanted outside of New York City. This check searches the state and federal wanted databases. A review of the COLES directory (utilize internet, ANYWHO.COM, AUTOTRACK.COM, LEXIS-NEXIS).

Conferral with the License Division to determine if there is a licensed gun owner residing at the subject location. Conferrals with Key Span Energy and Consolidated Edison (gas and electric utilities) to reveal billing to the target location.

When warrants are to be executed within a Housing Authority Development, a "Tenant Data Check" for the subject apartment will be conducted. Such a check would disclose the tenant of record for the subject apartment. Any other pertinent intelligence regarding persons/premises involved.

ORAL APPLICATION FOR SEARCH WARRANT

Section 690.36 of the Criminal Procedure Law allows for applications for search warrants to be made orally. When the arraignment part of the local criminal court is closed and the situation is of such urgency that it cannot be secured until the court re- opens, member concerned shall contact their borough executive officer/counterpart or, if unavailable, duty chief through their immediate supervisor. The Legal Bureau is available for assistance and guidance in this matter. If Legal Bureau is closed, the member will adhere to [P.G. 211-20](#), "Conferral With Department Attorney."

RELATED PROCEDURES

Confidential Informants ([P.G. 212-68](#))

Search Warrant Execution ([P.G. 212-105](#))

Conferral With Department Attorney. ([P.G. 211-20](#))

FORMS AND REPORTS

WARRANT TRACKING SYSTEM - PRE-WARRANT DATA ENTRY (PD374-143)

PROPERTY CLERK INVOICE (PD521-141)

REQUEST FOR RECORDS CHECK (PD349-161)

COMPLAINT REPORT (PD313-152)

Search Warrant Application

Typed Letterhead