



CHAPTER 1: LAW ENFORCEMENT ROLE AND AUTHORITY	POLICY # 1.9 SEARCH OF RESIDENCES
<p><i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i></p>	
Date Implemented: 07/15/2021	Review Date:

- I. **Purpose:** The purpose of this policy is to direct officers and supervisors with respect to home entries.
- II. **Policy:** The policy of this department is to protect and serve the constitutional rights of all citizens when conducting home entries while balancing the needs of law enforcement in solving crime for the protection of the community.
- III. **Definitions:**
 - A. **Probable Cause:** (search): Facts and circumstances based upon observations or information that would lead a reasonable law enforcement officer to believe that evidence of crime exists and that the evidence exists at the place to be searched.
 - B. **Exigent Circumstances Entry:** Entry of a dwelling without a warrant due to some existing emergency that would not allow an officer time to get a warrant.
 - C. **Search Incident to Arrest:** A search of the arrestee and their immediate area of control that is allowed whenever a custodial arrest is made.
 - D. **Consent:** The voluntary granting of permission for an officer to enter an area that is protected by the 4th Amendment, by a person who has a reasonable appearance of authority over that area.
 - E. **Dynamic Entry:** The utilization of a special team i.e., SWAT, ERU etc. when executing a high-risk warrant (that which meets high-risk matrix criteria) entering to control a barricaded subject, or similar high-risk event.
- IV. **Procedure:** At the outset officers are directed that there are only three lawful methods upon which he or she may enter a person's dwelling. These methods include a warrant (arrest or search-with differing rules for each), exigent circumstances, or consent.
 - A. **Risk Assessment Matrix:** Unless exigent circumstances exist, officers shall compile a risk assessment matrix prior to planning any entry of homes or other buildings.

- B. Knock and Announce:** Prior to considering a forced entry into a dwelling, officers must knock at the entrance and announce their identity and purpose.
 - a. Officers must wait a reasonable time before making entry after the knock and announcement. In determining how long an officer must wait before forcing entry following the knock and announcement, officers should consider the nature of the item sought and how long it would take to destroy the item.
- C. No-Knock Entry:**
 - a. No-knock entry should only be made pursuant to a no-knock warrant signed by a judge of the relevant jurisdiction. If officers believe circumstances exist that justify a no-knock entry prior to obtaining the warrant, the investigating officer must obtain permission from the chief or his designee.
 - b. SWAT teams should serve all No-Knock warrants.
 - c. If there is a change of condition that reduces the level of threat under the risk assessment matrix and removes the need for a no-knock entry, the normal knock and announce procedures should be followed.
- D. Arrest Warrant-Felony or Misdemeanor:** Officer may enter the home of the subject of an arrest warrant in cases where the officer also has reasonable suspicion to believe the subject is home.
 - a. Knock and Announce Rules Apply
 - b. Search Incident to Arrest-3 Zones
 - 1) Officers may, at the time of the arrest, search the room for the subject is arrested in once a lawful arrest is made.
 - 2) Officers may, at the time of arrest, also investigate, but not go into, areas adjoining the room of arrest, from which an attack could be launched.
 - 3) Officers may conduct a protective sweep, limited to those places where a person could be, in cases where the officers have reasonable suspicion to believe someone else on the premises poses a danger to the officer.
 - c. Officers must obtain a search warrant before entering the residence of a third party to search for the subject of an arrest warrant unless exigency or consent exists.
- E. Search Warrants-** Officers must have probable cause to believe that evidence of crime exists and must have probable cause to believe it will be located at the place to be searched.
 - a. Knock and Announce Rules Apply: all necessary and reasonable force may be used to affect an entry into any building or part thereof to execute a search warrant if, after verbal notice or a good faith attempt at verbal notice by the officer executing the warrant which states the officer's authority and purpose the officer may enter without delay:
 - 1) He or she is refused admittance.
 - 2) The person or persons on the premises refuse to acknowledge the verbal notice or the presence of persons inside the building is unknown to the officer; or
 - 3) The building or property is unoccupied.

- b. The search warrant itself must particularly describe the place to be searched and must also particularly describe the items to be seized.
 - c. The scope of a search warrant is limited by information (i.e., information developed indicates that items are stored in a specific location). Scope may also be limited by the size of the item; (i.e., if looking for a stolen piano, one would not open a bureau drawer).
 - d. All search warrants must be executed in a reasonable manner.
 - 1) Search warrants shall be executed within a reasonable time of issuance.
 - 2) If the search warrant is related to the search for alcoholic beverages held in violation of the law, the search warrant must be executed immediately.
 - 3) Search warrants may be executed at any reasonable time.
 - 4) An inventory of all items seized shall be compiled by two officers and a copy shall be left at the scene.
 - 5) A duplicate copy of the warrant shall be left with any person from whom items are seized or if no one is present, a copy shall be left in a conspicuous place at the residence.
 - e. Detention and Search of Persons on the Premises: When executing a search warrant, the officer may reasonably detain, and in some cases frisk any person in the place at the time under the following limitations (these limitations apply even in cases where the warrant calls for the “search of any person present”):
 - 1) Frisk-To protect him or herself from attack when the officer has reasonable suspicion, based upon specific facts, to believe that the individual present is armed and poses a threat.
 - 2) Search: To prevent the disposal or concealment of any item particularly described in the warrant where there is probable cause, based upon specific facts, to believe that the person to be searched is in possession of said item.
 - 3) Detain: Officers may detain any person who is present at the scene of a residence where officers are executing a search warrant. Where officers are executing a dangerous search warrant, all persons present may be handcuffed while officers conduct their search. If at any time it is determined that the person restrained in handcuffs is not dangerous, the handcuffs should be removed. Officers must be able to articulate the dangerous circumstances present which justified the handcuffing. This does not apply to commercial businesses.
- F. Consensual Entry-** Officers may, without reasonable suspicion or probable cause, enter a dwelling based upon the knowing and voluntary consent of a person who appears to have authority over the premises.
- a. **NOTE: These provisions apply to Knock and Talk events**
 - b. Consent must be voluntary and knowingly made.
 - c. Consent need not be in writing, but written documentation or recording will assist officers in proving that the consent was voluntary.
 - d. Officers may not enter a dwelling in a case where a co-occupant is present and objecting to the entry.

- e. The scope of a consensual entry and search rests with the consenting party who controls both how long the entry and search may last as well as what locations within the dwelling may be searched.
 - f. Officers should not rely on the consent of a juvenile under the age of 15.
- G. Exigent Entry-** An officer may enter a dwelling based on emergency circumstances when any of the following circumstances exist:
- a. Hot pursuit of a fleeing felon.
 - b. Imminent destruction of evidence for any jailable offense.
 - c. Need to prevent suspect's escape.
 - d. Risk of danger to police or others inside or outside the dwelling.
 - e. Officers may enter a dwelling without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such an injury.
 - f. Once exigency has ended, officers should secure the scene and obtain a search warrant.
 - g. The fact that an area is a crime scene does not create automatic exigency- There is not crime scene exception to the warrant requirement.
- H. Dynamic Entry:** Whenever entering a residence in a manner designed to anticipate a potential deadly force encounter, the specially trained team should be utilized to ensure the safety of all persons involved. This determination as to whether a dynamic entry is necessary is done through the completion of a risk assessment matrix.
- a. Due to the nature of executing this high-risk entry, extreme care must be utilized to ensure that only the proper residence is entered. When considering the use of a dynamic entry, the following precautions must be followed:
 - 1) A supervisor must be present and take responsibility for reviewing and approving the warrant as well as the affidavit prior to the execution of the warrant.
 - 2) If utilizing an informant for a narcotics purchase, an investigator must ensure that the informant has been observed at all possible times.
 - 3) The officer supervising the special team will conduct a drive-by of the location with the lead investigator using the legal description on the warrant to locate the residence to ensure that the residence to be entered is verified with the warrant. If any discrepancies exist or if the house cannot be located by the description on the warrant, the warrant shall not be served.
 - 4) Prior to execution of the warrant, all available data bases will be checked (telephone, electric, real estate etc.) to ensure that the residence matches the suspect of the investigation.
 - 5) A written operations plan will be prepared identifying the specific mission for the team, intelligence considered, a description of the targeted subjects and location, and the specific tasks assigned to each member of the entry team.
 - 6) The lead investigator will accompany the special team during the execution of the warrant and direct officers to the doorway of the residence to ensure that the correct residence is entered.

- 7) Upon completion of the operation, photographs of all entryways into the building shall be taken to document both damage and lack of damage.