

<p>Department of Public Safety and Correctional Services</p>  <p>Internal Investigative Unit Procedures</p>	<p><b>Procedure Number: A01.A.09.007.001/IIU.220.0003</b></p>
	<p><b>Title: Search and Seizure Warrant</b></p>
	<p><b>Effective Date: July 1, 2007</b></p>
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**.01 Purpose.**

This document establishes procedures for a Department of Public Safety and Correctional Services (Department) Internal Investigative Unit (IIU) investigator to obtain and serve a search and seizure warrant.

**.02 Scope.**

This directive applies to an IIU investigator.

**.03 Policy.**

- A. An investigator shall take possession of evidence or other personal property according to federal and state statutory and regulatory requirements and Department or agency policy and procedures.
- B. An investigator shall safeguard all evidence to prevent tampering or contamination thereby preserving the evidentiary value of the items for use in court or other administrative proceedings.

**.04 Authority/Reference.**

- A. Correctional Services Article, §10-701, Annotated Code of Maryland.
- B. Secretary’s Department Directive 04-2005 dated March 10, 2005.

**.05 Definitions.**

- A. In this document, the following terms have the meanings indicated.
- B. Terms Defined.
  - (1) “Affidavit” means a part of a Warrant that contains a detailed synopsis of available facts and information establishing probable cause to believe that:
    - (a) A criminal or administrative violation occurred;

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- (b) Evidence or property directly related to an investigation and prosecution of the violation is available; and
  - (c) The available evidence or property is:
    - (i) In possession of an individual;
    - (ii) In a specific item; or
    - (iii) At a specific location.
- (2) Chain of Custody.
- (a) “Chain of custody” means actions taken from the time of receipt until final disposition of items seized as evidence to ensure the evidentiary value and admissibility at the time of court or other administrative proceeding.
  - (b) “Chain of custody” includes:
    - (i) Documents used to record and track receipt, custody, storage, and disposition of evidence;
    - (ii) Secured storage; and
    - (iii) Preservation techniques.
- (3) “Controlled dangerous substance (CDS)” has the meaning stated in Criminal Law Article, §5-101, Annotated Code of Maryland.
- (4) “Custodial investigator” means the IIU investigator assigned the responsibility for administrative processing, storing, controlling access to, and final disposition of evidence and personal property in possession of the IIU.
- (5) “Evidence room” means a facility used to store and maintain items subject to chain of custody.
- (6) “Investigator” means a Department employee permanently assigned to, or on special assignment to assist, the IIU with the responsibilities specified under Correctional Services Article, §10-701(a)(3), Annotated Code of Maryland.
- (7) Probable Cause.
- (a) “Probable cause” means that reasonable inquiry established circumstances that would cause a reasonable and prudent individual to believe that the items identified in the search and seizure warrant are at a specific location, within a specific item, or on an individual.
  - (b) “Probable cause” is based on legally obtained reliable evidence that:

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- (i) Establishes a belief that goes beyond suspicion but is less than absolute certainty; and
  - (ii) Does not necessarily amount to “beyond a reasonable doubt” traditionally held as the standard for a guilty finding in a criminal action.
- (8) “Property inventory” means a written list of evidence or property removed from a location or item or taken from an individual subject to a Warrant.
- (9) “Search” means an inspection that infringes upon an individual’s reasonable expectation of privacy protected under the Fourth and Fourteenth Amendments to the U. S. Constitution.
- (10) “Search and seizure warrant” means a written order issued by a judge directed to a specific individual authorizing the designated individual to:
- (a) Inspect a location, item, or individual to obtain evidence or recover property related to a crime; and
  - (b) If during the authorized inspection evidence of a crime is discovered, take possession of the evidence for further investigation, prosecution, or other administrative proceeding.

### **.06 Responsibility/Procedure.**

#### **A. Obtaining a Search and Seizure Warrant (Warrant).**

- (1) Before an investigator applies to a judge for a Warrant, the investigator shall review the investigation with the Director of IIU (Director), or a designee.
- (2) If in the opinion of the Director, or a designee, there is probable cause to support applying for a Warrant, the Director, or a designee, shall authorize the investigator to apply to a judge for the Warrant.
- (3) An investigator authorized to apply for the Warrant shall complete the affidavit in a format and according to requirements of the judge with jurisdiction over the location, item, or individual subject to the search.
  - (a) An investigator shall include in the affidavit as much information as possible related to the investigation that if applicable, does not identify a confidential informant.
  - (b) A thorough affidavit supports:
    - (i) Validity of the Warrant; and
    - (ii) Prosecution.
  - (c) The level of detail required in an affidavit is directly related to the source of the information used to establish probable cause for the Warrant.

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- (i) An investigator's first hand knowledge based on personal observation requires the least amount of detail.
  - (ii) Information related to an investigator by another individual requires sufficient detail to establish why the investigator believes the individual providing the information.
  - (iii) Information related to an investigator by a confidential informant requires the greatest amount of detail to establish why the investigator believes the confidential informant and credibility of the confidential informant and information provided.
- (4) The investigator shall include a copy of the Warrant in the investigative case file.

**B. Pre-Warrant Service.**

- (1) After a judge issues a Warrant, the investigator named in the Warrant is responsible for completing administrative requirements related to service and return of the Warrant.
- (2) Before serving a Warrant, the investigator named in the Warrant shall notify:
  - (a) The Director, or a designee; and
  - (b) The law enforcement unit with concurrent jurisdiction where the Warrant is served.
- (3) The investigator named in the Warrant shall establish a search team to serve the Warrant that, at a minimum, consists of:
  - (a) The investigator named in the Warrant designated as the Search Team Supervisor (Supervisor);
  - (b) An investigator designated to photograph, collect, package, and label evidence or property discovered during the search;
  - (c) A police officer in uniform from the jurisdiction where the Warrant is served; and
  - (d) Sufficient investigators and support personnel to safely serve the Warrant and collect and preserve evidence or property.
- (4) To the extent possible, the Supervisor shall identify changes that may impact serving the Warrant;
- (5) The Supervisor shall conduct a briefing with the search team to:
  - (a) Review the Warrant, including:
    - (i) The purpose of the Warrant;
    - (ii) Evidence or property to be located;

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- (iii) Individuals to be detained and searched; and
- (iv) Limitations of the Warrant;
- (b) Assign responsibilities to search team members for:
  - (i) Security;
  - (ii) Evidence collection, packaging and labeling;
  - (iii) Video recording and photographing; and
  - (iv) Property inventory;
- (c) Review safety and security issues relative to the serving the Warrant;
- (d) Ensure that the location, item, or individual subject to the Warrant is the correct location, item, or individual searched by familiarizing search team members with the location, item, or individual subject to the search using:
  - (i) Maps;
  - (ii) Diagrams;
  - (iii) Photographs; and
  - (iv) Detailed descriptions;
- (e) Develop an operations plan for:
  - (i) Surveillance of the location, item, or individual subject to the Warrant;
  - (ii) Travel to and arrival at the location subject to the Warrant;
  - (iii) Entering the location or securing the item or individual subject to the Warrant;
  - (iv) Techniques to enhance the safety of the public, the search team, and the individual subject to the Warrant; and
  - (v) Coordinating searches at multiple locations;
- (f) Ensure that search team members:
  - (i) Are properly identified during service of the Warrant;
  - (ii) Wear appropriate body armor at the time the Warrant is served;
  - (iii) Are properly armed during service of the Warrant; and

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- (iv) Have equipment necessary to perform assigned responsibilities related to serving the Warrant.

**C. Serving a Warrant.**

- (1) The Supervisor shall ensure that a Warrant is served:
  - (a) As soon as possible after issue;
  - (b) Within 15 days of the date the Warrant was issued by the judge; and
  - (c) When possible, during daylight hours.
- (2) A police officer in uniform shall be present at the time a Warrant is served.
- (3) Search team members shall be at assigned security locations before service is attempted;
- (4) Except for a “no knock” Warrant, a search team member shall announce, loud enough to be heard by an individual at the location, in control of the item, or personally subject to the Warrant, the intent to serve the Warrant that includes statements similar to:
  - (a) “Police Officers”;
  - (b) “We have a warrant to search (Location, Item, or Individual)”;
  - (c) “We want immediate access to the (Location, Item, or Individual).”
- (5) A search team shall serve a “no-knock” Warrant according to statute.
- (6) Search team members using force to serve a Warrant shall:
  - (a) Use the minimum force necessary to serve the Warrant; and
  - (b) Comply with Department policy and procedures for the use of force.
- (7) The search team members assigned to secure the location of a search shall:
  - (a) Conduct a security sweep of the location; and
  - (b) Once the location is determined secure, maintain security posts during the search activities.
- (8) After the location, item or individual subject to the Warrant is secure, the Supervisor shall read the Warrant to:
  - (a) If applicable, the individual in charge of the location or item subject to the Warrant;  
or
  - (b) The individual subject to the Warrant.

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- (9) A search team shall conduct the authorized search in a manner that minimizes property damage or personal injury.
- (10) A search team member assigned to locate evidence or property:
  - (a) Shall conduct the search according to the Warrant and statute; and
  - (b) If the search team member locates evidence or property:
    - (i) Shall, to the extent possible, leave the evidence or property undisturbed; and
    - (ii) Shall stay with the evidence or property until the designated search team member collects, packages, and labels the evidence or property.
- (11) The Supervisor shall use only a reasonable amount of time to complete the search based on the circumstances of the search.

**D. Post-Search Responsibilities.**

- (1) After completing a search and securing evidence or property, the Supervisor shall:
  - (a) Ensure that a property inventory is completed;
  - (b) Sign the completed property inventory; and
  - (c) Ensure that a copy of the Warrant, affidavit, property inventory, and return are left:
    - (i) With the individual responsible for the location or item searched;
    - (ii) If no one is at the location or with the item searched, in a conspicuous location at the location or with the item searched where the paperwork is reasonably protected from loss or damage; or
    - (iii) If an individual is the subject of the Warrant, the individual searched.
- (2) After completing a search and securing evidence or property and before leaving the location, item, or individual, the supervisor shall ensure:
  - (a) The location or item subject to the Warrant is secure to prevent unauthorized access;
  - (b) If an individual was the subject of the search, the individual, if not arrested, is offered services to prevent injury or harm;
  - (c) If the location or item subject to the Warrant is damaged or an individual subject to the Warrant is injured at the time the Warrant is served, that the damage or injury is properly reported including details concerning:
    - (i) The action resulting in the damage or injury;

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- (ii) The extent of the damage or injury; and
- (iii) The action taken to address the damage or injury;
- (3) After completing the responsibilities under §§.06D(1) and (2) of this document, the Supervisor shall:
  - (a) Complete the return portion of the Warrant; and
  - (b) Present the judge who issued the Warrant with the return within 10 days of the date the Warrant was served.

**.07 Attachments.**

There are no attachments to this document.

**.08 History.**

- A. This document replaces IIU Executing a Search Warrant dated December 18, 2002.
- B. This document supercedes any current IIU policy or procedure with which it may be in conflict.