



# TOWN OF MACEDON POLICE DEPARTMENT

<b>General Order:</b> 435	<b>Effective Date:</b> January 14, 2021
<b>Subject:</b> Search Warrants Consent Searches	
<b>Reference Standards:</b> 50.1	
<b>Rescinds:</b> N/A	
Page 1 of 3	Attachments: 1. MPD Consent to search form 2. consent to search- cell phone 3. No-Knock Assessment Form

## I. Policy

- A. The execution of search warrants will be accomplished in a manner that best serves to balance the protection of the officers assigned while preserving the rights of the defendants and the integrity of the department.
- B. All personnel involved in the preparation and execution of search warrants will comply with Article 690 of the New York State Criminal Procedure Law (CPL).

## II. Search Warrant Procedures

- A. Prior to the issuance of a search warrant, it may be reviewed by an assistant district attorney, if available, for form, content approval and legal guidance to assure compliance with the New York State CPL.

1. No-knock warrants must be reviewed and approved by the Chief of Police or his/her designee prior presenting the warrant to a Judge for a signature.

- a) The Chief of Police or his/her designee shall utilize the No-Knock Assessment Form (Attachment 3) to determine the necessity of a No-Knock warrant. If the circumstances do not meet the No-Knock warrant threshold, the application for the warrant will not contain a request for a No-Knock warrant.

- B. Pre-execution Investigation

1. Before executing the warrant, the following information will be gathered when appropriate for the type of warrant being requested (premise, vehicle, etc.):

- a) Proper, accurate and detailed identification of the subject premises, vehicles, or person.
    - b) Location of routes of entry and exit.
    - c) Information regarding occupants, children, animals, neighborhood, presence of weapons, alarms, etc.
    - d) When possible, photographs, blueprints, or sketches of the premises and/or subjects.

2. If exigent circumstances and probable cause exist, officers may enter a home and conduct a protective walk through to secure occupants for officer safety reasons only. No additional search (for contraband etc.) may occur until a warrant has been obtained from a Judge and the warrant is present at the search location.

### C. Briefing

1. The officer in charge of the warrant's execution will hold a briefing prior to execution. During this time, the officer will:
  - a) Share the information gathered from the investigation
  - b) Explain the type of warrant obtained
  - c) Assign the necessary personnel and equipment
  - d) Outline the plan for approaching, entering, securing and searching the subject area.

### D. Execution

1. Premises
  - a) The officer in charge of executing the warrant will notify the Road Patrol Sergeant and/or any outside jurisdiction in which the warrant is to be executed. This notification will be made within a reasonable period prior to the execution.
  - b) A supervisor will be present at the execution of all search warrants of premises as well as persons not in custody.
  - c) Officers will be in possession of the warrant, or a copy, and it will be shown to the subject or premises owner upon request.
  - d) An officer will be assigned to take photographs prior to and after the execution of the search warrant. The taking of photographs prior to entry may not be possible, but photographs prior to any search **will** be taken unless evidence may be destroyed by the wait. Photographs will be taken of any items seized before removal.
  - e) Uniform personnel will be the first to enter the subject premises followed by any plain-clothes personnel.
  - f) Plain-clothes personnel will wear vests. Vest and/or raid jackets will readily display "POLICE" in a visible bold lettering.
  - g) Whenever possible, an itemized receipt will be left with a responsible person or at the premises if property is seized.
  - h) After execution, the deponent in the warrant will return the warrant and an itemized list of any property seized (if any) to the issuing Judge.

## 2. Vehicles

- a) A search warrant for a vehicle allows officers to seize the vehicle and tow it to a secure location for the search. An officer must maintain visual contact with the seized vehicle while being towed or transported from the seizure location to the secure location where the vehicle will be searched.

## E. Consent Searches

1. Department personnel having occasion to search a premise, vehicle, personal property, or person with the consent of the owner will either use a Consent Search form whenever possible (attachments) or document the verbal consent/approval in an appropriate report.
2. During every consent search, an officer must remain with the person giving the consent to search. If the consenting party revokes the consent to search, the officer must immediately relay this information to the search officers, and the search must desist immediately. If consent is revoked, but contraband was discovered prior to the revocation, and there is probable cause to believe more contraband exists, officers may secure the premises and apply for a search warrant.
3. The premise searched will be either left in the custody of the owner/responsible person or secured.

## F. Evidence

1. Items taken as a result of a search warrant or consent search will be properly secured and turned over to the Property Clerk pursuant to G.O. 480.
2. Only items described and listed in the warrant will be searched for and seized, except for the following.
  - a) Contraband (illegal drugs, illegal weapons, child pornography or stolen property). If contraband is discovered, and there is probable cause to believe additional contraband exists, officers may secure the premises and apply for an amended search warrant.
  - b) Items taken for safekeeping.

By Order of the Chief of Police

*John P. Colella*

John P. Colella (Apr 11, 2021 12:58 EDT)

John P. Colella

Chief of Police

Dated this 14th day of January, 2021