

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: JUNE 9, 2021
NUMBER: 4.07 - LEGAL
SUBJECT: TELEPHONIC SEARCH WARRANT PROCEDURES
RELATED POLICY: N/A
ORIGINATING DIVISION: INVESTIGATIONS II
NEW PROCEDURE:
PROCEDURAL CHANGE: **MINOR CHANGES**
SUPERSEDES: DP 4.07 – 10/04/2017

Portions of this document are deemed by the San Diego Police Department to be exempt from public disclosure because the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure, pursuant to California Government Code section 6255.

I. PURPOSE

This Department procedure establishes guidelines for requesting and obtaining a telephonic search warrant.

II. SCOPE

This procedure applies to all sworn members of the Department.

III. BACKGROUND

As a result of the United States Supreme Court decision in *Chimel v. California*, 395 U.S. 752 (1969), the right of police officers to conduct warrantless searches of residences incident to an arrest is limited to the person of the arrestee and the area within the arrestee's immediate control. The courts have always had a preference for searches conducted with a warrant and it is the policy of the Department that officers obtain search warrants whenever possible before searches are undertaken, unless there are clear grounds to support a recognized exception to the warrant requirement. Searches requiring search warrants should be distinguished from permissible limited protective sweeps of a residence incident to arrest based on specific, articulable facts supporting a reasonable belief that the area to be swept poses a danger to those at the arrest scene.

IV. PROCEDURES FOR OBTAINING A TELEPHONIC SEARCH WARRANT

A. When to Obtain a Telephonic Search Warrant

Typically, telephonic search warrants should only be used on Saturdays, Sundays, court holidays, and between 1700 hours and 0600 hours on weekdays.

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However, under emergency conditions and when time is of the essence, it is possible to obtain a telephonic search warrant during normal working hours. Any such requests should first be made to the SDPD Deputy District Attorney (DDA) liaison at **(Redacted – record exempt)**. If the SDPD DDA liaison is not available, contact the Sheriff's DDA liaison at **(Redacted – record exempt)**. If unable to reach either liaison, contact the issuing division of the District Attorney's Office at **(Redacted – record exempt)**, and request assistance.

B. How to Obtain a Telephonic Search Warrant

1. Officer Preparation

- a. Officers must have a telephone number at which they can be reached, blank search warrant forms (CRM-171), and blank "Receipt and Inventory" forms (CRM-172).
- b. Before contacting the Deputy District Attorney, the officer must prepare a summary of the facts that provide probable cause. The officer should also write out the description of the place to be searched and the property to be seized in the appropriate locations on the blank search warrant form.

2. Contacting a Deputy District Attorney

- a. The affiant officer will telephone the Watch Commander's Office and obtain the name and telephone number of the duty Deputy District Attorneys.
- b. If unable to contact either duty Deputy District Attorney through the Watch Commander's Office, the officer will call the Sheriff's Warrant Office at **(Redacted – record exempt)**. That person will tell the officer who the assigned duty Deputy District Attorneys are and will provide their telephone numbers. If the officer is still unable to contact the duty DDAs assigned, the officer shall attempt to contact the Department's DDA liaison at **(Redacted – record exempt)**; or if unavailable, the Sheriff's DDA liaison at **(Redacted – record exempt)**.

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3. Procedures upon contacting the duty Deputy District Attorney
 - a. Officers will relate the facts that establish probable cause for the issuance of the warrant.
 - b. If the duty Deputy District Attorney is satisfied that probable cause exists, the deputy will contact a judge.
 - c. The affiant officer will read a description of the place to be searched and the property to be seized to the duty Deputy District Attorney and make any changes the attorney suggests.
 - d. Officers will prepare a rough script of their statement of probable cause with the assistance of the duty Deputy District Attorney. If the warrant is to be served between 10:00 p.m. and 7:00 a.m., the reason for night service must be included.
 - e. Officers must remain by the telephone for a callback from the Sheriff's Warrant Office.

4. Procedures during the conference call

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- a. A three party audio-recorded conference call will be set up through the Sheriff's Warrant Office between the officer, the duty Deputy District Attorney, and a judge.

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- b. The conference call is audio-recorded. An initial voice at the beginning will indicate the conversation is being recorded, but the recorder will not continue to "beep." The duty Deputy District Attorney will control the recording. The officer is not to push any keys during the recording.
- c. During the conference call, officers must listen to what is said by the judge and the Deputy District Attorney. Officers must speak only in response to a question and must speak calmly and clearly. All names of individuals and streets should be spelled.
- d. When directed to do so by the judge, the officer shall write the name of the judge, the officer's name, San Diego Police Department, and ID number on the lower right-hand corner of the warrant. The date and time of execution should be left blank until the warrant is actually executed (by entering the premises, etc.). The lower left-hand portion of the warrant is left blank until the warrant is returned.

C. Execution of the Warrant

1. The announcement requirements must be followed prior to making a forcible entry of any outer or inner door. Per 844 PC and 1531 PC, "knock and notice" is required for outer doors that are standing open, but is not required for open inner doors.
2. Officers shall note the time and date of the execution of the warrant in the space provided on the warrant.
3. The head of the household, if present, shall be allowed to read the original warrant. That person shall then be given the fourth copy of the warrant.
4. The "searching" officer must fill out three copies of the Receipt and Inventory form. The head of the household shall be given one of the copies and another copy shall be attached to the case. Copies of the Receipt and Inventory form and search warrant must be left at the premises if no occupant is present.
5. In order to keep to a minimum the number of officers who will be required to make a court appearance, the functions of giving the affidavit, executing the warrant, and being the "searching" officer should be handled by one officer, whenever practical.

D. Return of the Warrant

1. The officer who executed the search warrant must take the original search warrant and Receipt and Inventory form(s) to the judge who issued the warrant. This must be done before 1700 hours on the court day immediately following the day the warrant was executed. If the judge who issued the warrant is unavailable, the officer should take the documents to the Presiding Judge or the judge who is acting as Presiding Judge.
2. After the judge or the judge's clerk has signed the Receipt and Inventory form, the officer shall deposit the search warrant and Receipt and Inventory form(s) in the San Diego Superior Court Calendar Clerk's Office of the court where the judge presides. Prior to submitting these forms, copies of the signed Receipt and Inventory form(s) and the completed search warrant should be made for the officer's report.