



Rochester Police Department General Order



EFFECTIVE DATE: April 20, 2015	SUBJECT: SEARCH/SEIZURES: BY DYNAMIC ENTRIES, SEARCH WARRANT, ARREST WARRANT, WITHOUT WARRANT	ORDER# 415
RESCINDS: G.O. 415 (07/06/12)	REFERENCE STANDARD(S): NYS: 50.2	PAGE 1 of 42
ATTACHMENT(S): (1), Application for a Search Warrant, (2), Search Warrant, (3), Inventory of Property Taken, (4), Disposition of Seized Property, (5), Search Warrant/Dynamic Entry Checklist, RPD 1234, (6) Consent to Search Form, RPD 1353, (7), High Risk Search Warrant Criteria		
Chief's Signature: <i>Michael L. Ciminelli</i>		

I. DEFINITIONS

- A. **Gender Expression:** Is a person's external representation or expression of gender identity to others, often through behavior, clothing, hairstyle, voice or body characteristics.

- B. **Gender Identity:** Is an individual's internal sense of being male, female, both, or neither. Individuals determine their own gender identity.

- C. **Pretext Stop:** A pretext stop is a traffic stop where an officer relies on the fact that a vehicle operator has violated the vehicle and traffic law to justify the stop of the vehicle, but the actual motivation of the officer is to investigate some other matter for which there is no probable cause. In a pretext stop, the officer is essentially utilizing the vehicle and traffic law as a means to further an unrelated investigation. (People v. Robinson)

- D. **Probable Cause ("Reasonable Cause"):** Probable cause to search exists when facts and circumstances known to the officer provide the basis for a reasonable person to believe that a crime was committed at the place to be searched, or that evidence of a crime exists at the location. Probable cause to seize property exists when facts and circumstances known to the officer would lead a reasonable person to believe that the item is contraband, is stolen, or constitutes evidence of a crime. When probable cause is based on information from an informant, there must be sufficient grounds to conclude both that: (1) the informant was reliable; and, (2) the information was credible. Note: under the New York law, the term, "reasonable cause" is equivalent to the term "probable cause."

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- E. **Reasonable Suspicion:** Is that suspicion based upon facts and any reasonable inferences that can be drawn in light of experience that lead one, as an ordinary and cautious person, to believe that some specific crime(s) or some specific criminal activity is being committed, was committed, or is about to be committed.

- F. **Reasonable Expectation of Privacy:** A reasonable expectation of privacy exists when a person has exhibited an actual (or “subjective”) expectation of privacy, and that expectation is one that society is prepared to recognize as “reasonable.”

- G. **Search:** A search is defined as any activity by a government official (including a police officer) that invades any area in which a person has a reasonable expectation of privacy. This includes but is not limited to a physical entry into an area, location, or item; a visual inspection or surveillance into a private area without an actual physical entry; an auditory interception or overhearing of communications on a communications device such as a telephone; and viewing data on a computer or similar device. A search deals with a person’s privacy rights, and can occur regardless of whether any items are actually seized or taken by the police.

- H. **Search Warrant Rule:** In order to be reasonable and hence lawful, every search or seizure by the police must be done with a search warrant, or under one of the specific recognized exceptions to the search warrant requirement.

- I. **Sex:** The biological status of a person as male or female (physical attributes).

NOTE: **Intersex Individuals** are individuals born with chromosomes, external genitalia, and/or internal reproductive system that varies from what is considered “standard” for either males or females.

- J. **Transgender:** A broad term that refers to any persons who do not conform or identify with traditional gender expectations associated with the sex they were assigned at birth. This term includes transsexual persons, androgynous individuals, individuals whose dress is typically associated with the opposite sex, and others whose appearance or characteristics are perceived to be gender atypical.

II. BACKGROUND

A search is an indispensable part of many investigations. It is the systematic and lawful examination of a person, place, or other object to locate evidence, illicit contraband, or other "fruits of the crime." Searches should be thorough and conducted in a timely manner with a reasonable amount of intrusion to the person and/or physical location being examined.

The complexities surrounding searches for objects, either with a warrant or without, necessitate well-defined procedures. The Fourth Amendment to the U.S. Constitution, and the New York Constitution, prohibit "unreasonable searches and seizures". A search or seizure may be found unreasonable by a court and lead to the exclusion of evidence obtained. A warrant may protect against the exclusion of evidence in a criminal court and provide some civil liability protection.

III. POLICY

- A. It is the policy of the Rochester Police Department (RPD) to comply with the spirit and letter of the law. All searches will be conducted in a manner that protects the rights of all persons, and the integrity of the Department and its members.
- B. The RPD neither condones nor permits the use of any bias-based profiling, as defined in G.O. 502, in asset seizure and forfeiture efforts.
- C. It is acceptable for an officer to use a vehicle and traffic violation as a pretext for stopping a vehicle to further an investigation.
- D. Members will not conduct a warrantless search unless it meets the legal criteria for an exception to the search warrant rule.

IV. DYNAMIC ENTRIES

A dynamic entry is a lawful, rapid, and methodical control of a place or premise, as well as the control of all occupants, by using surprise, speed, and aggression by law enforcement personnel. It is planned for the arrest of wanted persons, to collect physical evidence, or seize contraband, and/or to recover stolen property.

V. SEARCH WARRANTS (NYS CPL ARTICLE 690)

A. A Search Warrant is a court order and process that directs a police officer (or other authorized persons) to conduct:

1. A search of a designated premise, vehicle, or person for the purpose of seizing specific property or kinds of property that is clearly designated in the warrant, and to deliver seized property to the court that issued the warrant; or
2. A search of a designated premise to arrest a person who is the subject of a:
 - a) Warrant of arrest, or
 - b) Superior court warrant of arrest, or
 - c) Bench warrant for a felony, where the designated premise is the dwelling of a third party who is not the subject of the arrest warrant; or
3. A warrant of arrest issued by any other state or federal court for an offense which would constitute a felony under the laws of this state, where the designated premise is the dwelling of a third party who is not the subject of the arrest warrant.

B. Required/Related Documents - Purpose

1. Application for a Search Warrant (written) - Attachment 1.

The Application for a Search Warrant is the official document used by the member (applicant) to present facts, which are supported under oath or affirmation by the member to constitute probable cause to the judge for the issuance of the search warrant (the application may be oral, CPL 690.36).

2. The Search Warrant - Attachment 2.

The Search Warrant is the actual official document that delegates authority for a search and seizure. Details contained within the search warrant as to the description of the premises to be searched and the property to be seized must coincide with the details and information contained within the Application for the Search Warrant.

3. The Inventory of Property Taken - Attachment 3.

The Inventory of Property Taken Form is prepared by a member to describe the property that was seized. Following the execution of the search warrant, it will be presented to the court along with the search warrant (and the actual property if the court desires) without unnecessary delay.

4. The Disposition of Seized Property - Attachment 4.

The Disposition of Seized Property Form is prepared by a member. Following execution of the search warrant to comply with the court directive as to where the seized property will be maintained, it accompanies both the Inventory of Property Taken and the seized property back to the court pending further court action.

C. Required/Related Documents - Preparation

The documents are available on the RPDWEB, as well as through the Paralegal Unit and the Special Investigation Section (SIS). All search warrant related documents will be completed per the mandates of CPL Article 690, Search Warrants. For examples of the forms, refer to Attachments 1-4.

D. Search Warrant Procedures - Obtaining the Search Warrant

1. **Review:** A member may prepare the Application for a Search Warrant and Search Warrant documents for submission to his/her immediate supervisor, who will review its prima-facie content and form. Following an investigation establishing probable cause, the preparing member (with supervisory approval) or reviewing supervisor may consult with the on-call Assistant District Attorney (ADA) to further review and obtain legal advice prior to submission of these documents to the appropriate court. All search warrants for narcotics and/or guns must be reviewed by a SIS supervisor prior to submission to a judge for approval.
2. **Presentation to the Court:** The original Application and Search Warrant will be presented to a judge who presides in the court of jurisdiction over the target location of the warrant where the warrant is given to concur with its legal sufficiency prior to execution of the warrant. During non-

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business hours, members will contact the on-call ADA to determine the appropriate judge to contact.

In either case, if the judge approves the legal sufficiency of the submitted documents, he will sign the warrant to grant authority for the search and subsequent seizure. If he rejects the application due to legal insufficiency, the applicant may not present an application to another judge unless that judge is informed about the initial attempt, including the reason(s) for its rejection by the first judge.

NOTE: The reasons for a "no-knock" or "night-time" warrant (anytime after 9:00 p.m. and before 6:00 a.m., CPL 690.40.2) must be set forth in the application and the judge's order (warrant) must specifically give such authority to those executing the warrant.

3. **Application and Search Warrant Documentation Distribution:** An original and two copies of the Application and Search Warrant will be prepared. The originals will be maintained by the applicant member for subsequent return to the issuing court. Only one copy of the Search Warrant will be left at the scene of execution (do not leave a copy of the affidavit). The other copy will be placed in the case file.
4. **Return of Unexecuted Search Warrants:** In the event a Search Warrant is not executed, the applicant member must return the Search Warrant and Application to the court of issuance within ten (10) days of expiration.

E. Search Warrant Execution Procedures

1. The operational plan should be based on the individual facts and circumstances of each warrant, with that level of force and personnel dictated by the facts and circumstances.
2. The disclosure of information about the possibility that persons may be armed and/or intend to resist police action must be given to the member(s) who will execute the search warrant. If the warrant fits the criteria of a high-risk warrant (Attachment 7), it will be deemed as such, and additional specially trained and equipped personnel (SWAT members) will be notified and involved.

3. All search warrants that require a dynamic entry will be conducted by members of SIS and/or SWAT, if the high-risk criteria are met (Attachment 7).
4. All supervisors in charge of warrant executions will complete Part I of the Search Warrant/Dynamic Entry Checklist (Attachment 5, RPD 1234) prior to its execution. Other personnel may use this form in support of their warrant planning.
5. Pre-Execution Briefing

The supervisor in charge of the warrant execution will hold a briefing prior to its execution. This briefing is especially critical when planning warrant executions involving agencies and personnel from outside of the RPD. It will be at this briefing that all personnel involved in the warrant execution will be notified of the following:

- a) Which supervisor will be in charge of the warrant execution. If the briefing member will not be present at the target location during the warrant execution, the member will designate one person with at least the rank of Sergeant to coordinate and personally supervise the warrant execution at the scene.
- b) Information gathered leading up to the search warrant.
- c) Type/scope of all warrants issued (e.g., arrest and/or search, knock or no-knock, what items are to be searched for).
- d) Complete detailed description of the target location, to include, when available, photos, maps, sketches, interior and exterior diagrams, etc.
- e) In any event where non-uniform personnel are utilized, they must be readily recognizable as police personnel to reduce the likelihood of mistaken identity by other police personnel, targets, their associates and the general public (e.g., SIS raid uniform).
- f) Equipment that will/may be used (e.g., issued

firearms, raid jackets, general duty helmet, body armor, portable radio, flashlight, tech. equipment, first aid kit, forced entry tools, evidence collection and photographic supplies, field narco-evidence tests, rubber/latex gloves, hand and flex cuffs, etc.).

- g) Tactics and strategies that will/may be employed (e.g., warning, surprise, or subterfuge).
- h) Persons expected to be encountered and handling of special populations (e.g., juveniles, females, handicapped, etc.).
- i) Special hazards existing and personal protection needs (e.g., clandestine drug labs, explosives, attack dogs, booby traps, etc.).

6. Execution Notifications

Prior to the initiation of a search warrant execution, the designated supervisor will make the following notifies as necessary:

- a) For all targets inside Monroe County, the Emergency Communications Department supervisor will be notified immediately prior to the execution, via the Mobile Data Computer (MDC), with the time and location.
- b) Targets Inside the City of Rochester:
 - (1) During normal business hours, a Platoon supervisor from the appropriate Section, or
 - (2) During non-business hours, the Staff Duty Officer and a Platoon supervisor from the appropriate Section will be notified, who will ensure a uniformed officer or supervisor be present during the execution.
- c) Targets Outside the City of Rochester:
 - (1) At any hour, a supervisor of the law enforcement agency having geographical jurisdiction will be notified, and a representative member (preferably a

supervisor) will be requested to be present during the execution, and

- (2) The Commanding Officer of the Division, Section, or Unit that is executing the warrant.

NOTE: Notification will occur simultaneously with/or immediately following execution in those instances where prior notification would jeopardize the event or safety of personnel.

- d) If making prior notifications may compromise an investigation, the designated supervisor must receive approval from the appropriate Division, Section, or Unit Captain or Commanding Officer to not make the above notifies.

7. Entry Procedures

During the entry to the target location, the following will occur:

- a) Presence and purpose will be announced.
- b) Only force reasonably necessary to accomplish entry, assure safety of all persons, and protect against the destruction of evidence or contraband will be used. Any damage necessary or accidentally caused to the premise will be documented and photographed.
- c) All persons encountered will be controlled and stabilized. Only force authorized per G.O. 335 and G.O. 340 will be used. In the event force is used, it will be properly documented and photographed per G.O. 335.
- d) If injury occurs to any party (police, target occupant, or bystander), the need for medical attention/treatment will be evaluated and effected per current directive. It will be properly documented, photographs will be taken, and the injured party attended to per current directive.

8. Search Procedures

Once entry and control of the premise and persons

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contained therein has been effected, the search will begin under the scope of the warrant. The following will occur during search operations:

- a) If possible, the owner or person responsible for the premise will be given a copy of the search warrant (do not leave a copy of the affidavit) and be present during the search.
- b) Photographs of the premise and any persons present will be taken prior to any search or disruption of the premise, or as soon as possible without jeopardizing officer safety. Nothing precludes the additional use of videography in documentation.
- c) The designated search team members will conduct a thorough and orderly search for the items named in the warrant, done in such a manner as to avoid unreasonable disruption or damage to the premise or personal property contained therein.
- d) For all search warrants or dynamic entries, the Search Warrant/Dynamic Entry Checklist Part II (Attachment 5) will be completed and maintained post warrant execution.
- e) Photographs will be taken of all seized items at their point or location of discovery and prior to their collection.
- f) All seized property or evidence will be collected and processed, etc. by the member discovering same (or by the designated "Evidence Officer") per G.O. 450, Property Evidence.
- g) Any persons arrested will be processed per current directives.

9. Search Warrant Amendment

In such cases where, during the course of the search, property is discovered that is not specified on the original search warrant (e.g., a search warrant specifying narcotics where stolen property is also located), members will:

- a) Assign one member to secure and standby with the discovered property.
- b) Continue with the original search (if necessary).
- c) Not remove any property/evidence from the scene that is discovered and is outside the scope of the warrant.
 - (1) An exception to this would be the discovery of obvious contraband (i.e., drugs or illegal handguns located in the searchable area or plain view during search). No amendment is needed, and evidence can be seized.
 - (2) Another exception would be if a member has or obtains knowledge that a suspect has been convicted of a felony and a shotgun or rifle is located, the member may seize such weapon(s) without an amendment to the original search warrant.
 - (3) In the event weapons are discovered and are found to be legally owned by the suspect or occupant at the scene, the weapons will be secured by a member during the search, but must be returned to the owner prior to leaving the scene (an exception would be if the owner was arrested, or if the member can articulate the reason as to why the weapons should not be returned in the interest of public safety).
- d) Write an amendment to the original search warrant, specifying property to be seized and probable cause to seize such property.
- e) Deliver a written amendment to the original issuing judge for review, approval, and signature. An oral request for an amendment may be done in person or by phone, however, a written amendment is preferred. In the instance that the issuing judge is unavailable, the entire warrant, including the original warrant and any amendments, must be delivered to the second judge.

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- f) Notify members who are at the search warrant location of the judge's approval or disapproval of the amendment as soon as practical.
- g) If the amendment is approved, members at the search warrant location will proceed with the search and seizure of any and all property/evidence outlined in the amended warrant. The additional items in the amended warrant will be clearly communicated to the members at the location before the search begins.
- h) If the amendment is not approved, members will secure only the property/evidence that is discovered and outlined in the original warrant. The remaining property will be photographed and left at the scene.
- i) Follow guidelines and directives in regards to recovered property and documentation as outlined in this order.

NOTE: Members may also refer to Appendix 1 (F) for plain view observation exceptions as it relates to amending a search warrant.

10. Post-Search Procedures - At the Target Location.

Upon completion of the search and subsequent seizure (if any), the following will occur:

- a) The premise will be photographed.
- b) A copy of the search warrant will be left in a conspicuous location if there is no one present to accept it (do not leave a copy of the affidavit).
- c) The premise will be left in a secure fashion, either in the control of a person of authority present, or physically secured.
- d) An inventory of seized items will be listed on RPD Form 1217 (Property Custody Report) and, when possible, a copy will be left at the secured location.

11. Post-Search Procedures - Property.

- a) Upon seizing property pursuant to a search warrant, a member must write and subscribe a receipt itemizing the property taken, and the name of the court by which the warrant was issued (CPL 690.50(4)).
 - (1) An inventory of seized items will be listed on RPD Form 1217 (Property Custody Report).
 - (2) If property is recovered from a person, a receipt must be given to such person.
 - (3) If property is recovered from the premises or a vehicle, a receipt must be given to the owner, tenant, or other person in possession of the property if he or she is present.
 - (4) If the owner of the property is not present, the member must leave a receipt in the premises or vehicle from which the property was taken.

12. Post-Search Procedures - Away From Target Location.

- a) Following the execution of the search warrant, a debriefing will occur with all involved personnel to critique the effectiveness of the pre-warrant briefing, the warrant execution operations, strategy, technique and equipment used, preparation of Search Warrant/Dynamic Entry Checklist, etc.
- b) All necessary documentation will be prepared, reviewed, and collated for the case package and presentation to the court.
- c) All property/evidence seized may be re-inventoried on the RPD Property Custody Reports, and will be delivered to the Property Clerk for custody storage pending court disposition of seized property.
- d) The Disposition of Seized Property and the Inventory of Property Taken will be prepared, along with the original Search Warrant and original Search Warrant Application, and delivered to the court of issuance without unnecessary delay (CPL 690.50(5)). The issuing judge will be informed of the location of the

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seized property and asked if he or she wishes to personally view it.

VI. SECTION LEVEL OR TACTICAL UNIT DRUG INVESTIGATIONS AND SEARCH WARRANTS

- A. The Section and Special Operations Section Commanding Officers will designate a Section or Unit Drug Coordinator to act as a liaison with SIS. The Section or Unit Drug Coordinator and the SIS Coordinator will ensure that no conflicts exist between the Section's or Tactical Unit's drug investigations and any investigations conducted by SIS.
- B. A member may stop and question a subject coming from a suspected drug location, so long as the member can articulate a reason for the stop, and such stop is conducted pursuant to current provisions of the law.
- C. Upon a member developing information from a street stop, vehicle stop, or concerned citizen, that may lead to follow-up at a residence or business regarding narcotic or gun sales or possession, prior to any overt investigative steps, members must first contact the SIS Coordinator or any SIS supervisor to determine if there is an active investigation regarding the subject or location. If SIS does have an active investigation at the location, then it will not be targeted at the Section or Tactical Unit level, unless authorized by SIS. If there is not an active investigation, SIS will then assist the member with the follow-up and preparation of a search warrant, if applicable.
- D. If a drug location will be investigated at the Section or Tactical Unit level, the SIS Coordinator will add the location to the SIS case tracking system. Members will notify the SIS Coordinator upon closure of the case, and the SIS Coordinator will ensure that the disposition is entered into the Case Tracking System.
- E. Upon developing probable cause to arrest, the member will proceed as follows:
 - 1. Arrest Situation

Upon evidence of a crime, a member may initiate an arrest and complete the appropriate reports pursuant to current directives. After advising the subject of his Miranda Rights, an attempt should be made to obtain a voluntary statement

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from the subject outlining his involvement at the drug location.

2. Non-Arrest Situation

Members have the option to not arrest a subject, provided that the subject is cooperative, provides a deposition documenting his/her purchase of the illegal substance, and is positively identified. In these instances, the member will complete an Incident Report classifying the case as "no prosecution."

3. Any and all substances confiscated must be processed and handled per G.O. 450. All completed reports will be left for the Section or Unit Coordinator for processing, and must be filed at the Section or Unit in a location with 24-hour accessibility, as determined by the Section or Unit Coordinator.

- F. A SIS supervisor must review the warrant application prior to presenting it to a judge.
- G. SIS and/or SWAT will execute the warrant if it involves a dynamic entry. The SIS supervisor (or SWAT, when applicable) will develop the plan and assemble the entry team for all dynamic entries. Whenever feasible, all members involved in the investigation will actively participate in its execution.
- H. All effort will be made prior to the search warrant execution to establish or confirm that the house in question is still active. Confirmation can be made through buys with a confidential informant, undercover officer, or through visual surveillance indicating a large number of customers purchasing drugs. If the house in question is NOT active, the search warrant will NOT be executed.

VII. SEARCH FOR A DEFENDANT PURSUANT TO AN ARREST WARRANT

- A. An Arrest Warrant is a court order authorizing the police to search for and deliver the defendant named on the warrant to the issuing court for the purpose of arraignment. Members may enter any premise where they reasonably believe the defendant may be located, including the defendant's home, with the following exception:

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1. Members may not enter the dwelling of a third person not named on the warrant (CPL 120.80.4) without possession of a SEARCH warrant for that dwelling. If another exception to the search warrant requirement (e.g., voluntary consent to search by the third party resident) exists, the search warrant may not be required. Refer to Appendix I for exceptions to the search warrant requirement.

- B. If the member has reason to believe the defendant named on the warrant is in the dwelling of a third party not named on the warrant, and no exception to the search warrant requirement exists, the member will secure a search warrant to enter said dwelling (CPL 690.05.2.b).

VIII. STRIP AND BODY CAVITY SEARCHES

- A. Unless exigent circumstances exist, members will apply for a search warrant for a strip search or a body cavity inspection in accordance with Section V (Search Warrants) of this order. Strip searches and body cavity inspections without a warrant will be conducted only accordance with this order.

- B. There are three types of strip and body cavity searches.
 1. A **strip search** occurs when a person is required to disrobe so an officer can visually inspect the person's body.
 2. A more intrusive **visual body cavity inspection** occurs when the officer looks at the arrestee's anal or genital cavities without any physical contact.
 3. In a **manual body cavity search**, there is an actual physical intrusion beyond the body's surface, such as the removal of an object from a cavity, or the insertion of a finger into an orifice.

Note: Removal of contraband (e.g., drugs) from an arrestee's mouth is not considered a strip search or body cavity search.

Note: Members will not conduct any type of search or touch a person in any way solely to determine a person's sex.

- C. Strip Searches and Visual Body Cavity Inspections

1. To conduct a strip search, members must have reasonable suspicion to believe that the arrestee is concealing evidence/weapon underneath the clothing, and the search must be conducted in a reasonable manner, with due regard for the arrestee's privacy. To conduct a visual body cavity inspection, members must have a specific, articulable, and individualized factual basis supporting a reasonable suspicion to believe that the arrestee secreted evidence inside a body cavity, and the visual inspection must be conducted in a reasonable manner, with due regard for the arrestee's privacy. Strip searches and visual body cavity inspections shall not be conducted in public, except under the most extraordinary circumstances, such as where necessary to save the life of an arrestee.
2. Field strip searches or visual body cavity inspections of prisoners without a warrant will be conducted only in the rarest of circumstances under exigent circumstances where the life of members or others may be placed at risk, and only with the explicit approval of a supervisor. Members will not conduct a strip search or visual body cavity inspection without a warrant of any person who has not been placed under arrest. Under no circumstances may members conduct a strip search or visual body cavity inspection of persons who are detained in a "DeBour" or "stop and frisk" situation.
3. When reasonable suspicion exists to conduct a strip search or visual body cavity inspection, the arresting member will make a request for such action to his supervisor that clearly defines the basis for this action.
4. When authorized by a supervisor, strip searches will be conducted in accordance with procedures outlined in Section E below, and in conformance with approved hygienic procedures and professional practices.

NOTE: Exigent circumstances, e.g. as may be found in SIS search warrant executions, may dictate the necessity to conduct an immediate strip search of an individual due to the need to secure evidence and ensure officer safety. However, it is important to emphasize that strip searches, visual body cavity inspections and manual body cavity searches cannot be routinely undertaken as incident to all

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drug arrests or under a blanket policy that subjects persons suspected of certain crimes to these procedures. Members must have a specific, articulable, and individualized factual basis to justify subjecting an arrestee to these procedures.

D. Manual Body Cavity Searches

1. Members are prohibited from conducting manual body cavity searches themselves.
2. To be lawful, there must be probable cause to believe an object is hidden inside the arrestee's body, and there must be a search warrant, unless exigent circumstances exist.
3. If, during a visual examination of a subject during a strip search or visual body cavity inspection, the member observes an item that appears to be a weapon, evidence, or contraband, on the subject's body, the member may retrieve the item, unless doing so would involve removing it from within a body cavity or body organ.
4. In the event that a visual examination of a subject during a strip search or visual body cavity inspection, or other information, establishes probable cause to believe that the subject is concealing a weapon, evidence, or contraband *within* a body cavity or body organ, the member will notify a supervisor, and arrangements will be made to apply for a search warrant, unless exigent circumstances exist. Such exigent circumstances include that the arrestee is in medical distress, or there is an imminent danger that the evidence would be lost or destroyed.
5. If exigent circumstances exist, the member will notify a supervisor and ensure that the subject is transported to a hospital facility for removal of the contraband by medical personnel. Any manual body cavity search without a search warrant must be approved by the Staff Duty Officer, a Captain, or higher RPD authority. Members will ensure that properly trained medical personnel conduct the search.
6. When authorized, manual body cavity searches will be conducted in accordance with procedures outlined in Section E below, and in conformance with approved hygienic procedures and professional practices.

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E. Procedures for Strip Searches and Body Cavity Inspections/Searches

1. Members will adhere to the following procedures in conducting strip searches and body cavity inspections:
 - a) Conduct these types of searches in a private secure area that affords the subject of the search dignity and privacy.
 - b) Conduct this type of search with the least number of members necessary, but in the presence of at least two members, and only by members of the same gender as the person to be searched. If it is determined the subject is a transgender person, members will search consistent with the gender expression of the prisoner, unless otherwise requested by the subject. If the gender expression is unclear, the member will respectfully ask how the person would like to be referred to, and by which gender officer by which gender officer the person would prefer to be searched.
 - c) Document on an Incident Report or Investigative Action Report the details of the search, to include:
 - (1) Date and place of the search
 - (2) Identity of the member conducting the search
 - (3) Identity of the individual searched
 - (4) Those present during the search
 - (5) A description of the nature and extent of the search
 - (6) Any weapons, evidence or contraband found during the search
 - (7) The specific, articulable, and individualized factual basis supporting a reasonable suspicion for initiating the search
 - (8) The name of the supervisor that sanctioned the search.

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2. Nothing in the aforementioned procedures will prevent a member from following the normal course of procedure relative to arrest and subsequent searching and scanning of a prisoner at the Monroe County Sheriff's Central Booking Office.

IX. WARRANTLESS SEARCHES - EXAMPLES

- A. The following are some exceptions to the general search warrant rule (refer to Appendix I for detailed explanation):

1. Arrest Warrant Exception
2. Frisk Exception
3. Search Incident to Arrest Exception
4. Automobile Exception
5. Consent to Search Exception
6. Plain View Observation Exception
7. Abandoned or Discarded Property Exception
8. Open Fields Exception
9. Inventory Search Exception
10. Exigent Circumstances Exception

- B. The following are searches expressly allowed by statute (refer to Appendix II for a detailed explanation):

1. Environmental Conservation Searches
2. Probation "Search Orders"
3. Parole Searches
4. Administrative Searches

X. PROCEDURES DURING AND FOLLOWING WARRANTLESS SEARCHES

- A. Following any search, members will document their actions. This is especially important because the reasonableness of the search and seizure cannot be based upon what was found as a result of the search. Instead it is measured by the facts and circumstances known to the member prior to the search and seizure. In the event a search results in a subsequent seizure that may later prove to be of evidentiary value and presented to a criminal court, the member will fully document the events that led up to the search, the reason for the search, the person(s) conducting the search, location of property discovered, chain of custody, etc. This documentation will be reduced on the appropriate RPD report form (Incident, IAR, etc.).
- B. All evidence/contraband discovered during a search and subsequently seized will be processed and preserved per current evidence handling procedures, and fully documented and described on the Property Custody Report.
- C. A copy of the completed Property Custody Report will be presented to the possessor/rightful owner of the property.
- D. All seized property will be delivered to the custody of the Property Clerk pending later determination of property status, etc.
- E. Additional procedures in Consent to Search instances:
 1. Written Consent - Whenever possible, consent searches should be in writing and read out loud to the person giving consent.
 - a) Members may attempt to obtain a written consent prior to a search of a vehicle or premises.
 - b) In the event a written consent is obtained, members conducting the search will utilize a Consent to Search Form, RPD 1353, (Attachment 6) to document the written and voluntary authorization by the person granting same.
 - c) In cases of third party consent, the member must inquire into the person's authority and competency to

give consent, and then document that information/authority.

2. Oral Consent

In the event a written consent is refused but an oral consent is granted, another member or a responsible civilian will serve as a witness to the oral consent. The member receiving the permission to search will utilize the appropriate Departmental report form (e.g., Incident, IAR) to document the following:

- a) The actual words used by the consenting party and the circumstances surrounding the consent.
- b) The reason(s) why written consent was refused, as stated by the consenting party.
- c) The name, address, and phone number of the witness when the witness is a civilian.

F. Knock and Talk

Knock and Talk is a drug enforcement strategy designed to notify the residents of a suspected drug location that the RPD is aware of their illegal activities, and that they should cease and desist such activities.

1. Pre-Knock and Talk Procedures

- a) Background and Intelligence Gathering
 - (1) Consent searches can only be conducted during a Level II intrusion, commonly referred to as a "Common Law Right to Inquire". (People v. DeBour)
 - (2) Common Law Right to Inquire is activated by "a founded suspicion that criminal activity is afoot", such as observable conduct or reliable hearsay information based upon the following:
 - (a) Documented Complaints to the Police Department.
 - (b) Police documented reports.

- (c) Confidential Informant information.
- (d) Citizen Informant information.
- (e) Police observations

NOTE: Information supplied to the Department should be corroborated through police observations.

2. Conducting a Knock & Talk

- a) Consult with SIS personnel first to determine whether a Knock and Talk may jeopardize an on-going investigation.
- b) Notify a section supervisor that a Knock and Talk is being planned.
- c) No more than two (2) uniform members should be visibly present at the location when initiating a conversation with the citizen.
- d) Conversation with the citizen must be in a non-threatening manner, with no verbal force being exhibited.
- e) When possible, consent should be obtained as outlined in Section X.E, above.
 - (1) Consent should be in the form of a two-step procedure: consent to enter and consent to search.
- f) Once consent is gained:
 - (1) A member should remain with the citizen supplying the consent for officer safety reasons, and to provide the citizen with the ability to withdraw their consent.
 - (2) Additional members may be present to assist with a search, and for officer safety.
 - (3) A complete search of the premises can be conducted, unless the consent is withdrawn.

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- g) If consent is withdrawn after evidence / contraband has been located, the search must cease.
 - (1) Members should file for a search warrant of the complete residence based upon the evidence / contraband located during the consent search.
- 3. Post Knock and Talk Procedures
 - a) Non-arrest Knock and Talks will be documented on an Incident Report, outlining the procedures followed, and the results.
 - b) Arrest Knock and Talks will be documented on an Incident Report outlining the procedures and the probable cause resulting in the arrest.
- 4. Plain View Exception
 - a) If contraband is observed during the initial phase while at the door to the location, members may be justified in entering the location and seizing the observable contraband. A further search beyond this initial seizure would require the use of another search exception (e.g., consent or a search warrant).

APPENDIX I

EXCEPTIONS TO THE SEARCH WARRANT REQUIREMENT

A. ARREST WARRANT EXCEPTION

Armed with a valid arrest warrant, a police officer may search for the defendant in the defendant's home if there is probable cause to believe the defendant is home at the time of the search (Payton v. New York).

This search is limited to searching only for the defendant. This exception will not allow an officer to search a third person's home, even with an arrest warrant AND probable cause to believe the defendant is present (absent any other exception to the Search Warrant requirement, e.g., consent). Secure the home and obtain a SEARCH WARRANT per CPL 690.

B. FRISK EXCEPTION

A police officer may search an individual for weapons if the officer has an articulate and reasonable fear that the individual may be armed. Whether called a frisk or a pat down, it is still a search and limited only to the detection of weapons. New York State CPL's "Stop and Frisk" statute authorizes:

1. A police officer to stop a person in a public place located in the officer's geographical area of employment when he reasonably suspects that such person is, has, or is about to commit a felony or misdemeanor defined in the Penal Law and may demand of such person, his name, address, and explanation of his conduct (CPL 140.50, the "stop"), and
2. Upon stopping a person as previously described, if the police officer reasonably suspects that he is in danger of physical injury, he may search such person for a deadly weapon or any instrument, article or substance readily capable of causing serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons (CPL 140.50.3, the "Frisk").

This is a limited search for weapons. It does not allow the seizure of items not reasonably believed to be weapons (e.g., small soft glassine envelopes or crack vials, People v. Brockington). If, during the course of your frisk, you discover what turns out to be the fruits or instrumentalities of a crime that you have reasonable cause to believe was committed or was about to be committed, you may arrest the person and seize such property as evidence (Peters v. New York).

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C. SEARCH INCIDENT TO ARREST EXCEPTION

The most often used exception is the search incidental to a physical arrest when the defendant is taken into custody. Upon making a valid arrest, an officer may conduct a full and complete search of the defendant. This is a much broader search and not limited to only weapons. Any weapons or contraband discovered will be seized and appropriate charges considered. It must also be conducted incident to the arrest and not delayed. This also allows for a search of the area within the reach of the defendant (*Chimel v. Cal.*).

D. AUTOMOBILE EXCEPTION

An automobile may be searched without a warrant if there is probable cause to believe that there is evidence in the vehicle. This is the one exception where probable cause alone supplies the justification to conduct a warrantless search (*Carroll v. United States*).

Unlike the search incident to arrest, the automobile exception allows an officer to search the entire automobile, not just the interior, as long as he has probable cause to believe evidence may be located where he is looking. The search under this exception cannot exceed the scope of the probable cause. It also allows for the search of all containers and items contained in the motor vehicle if probable cause exists for these containers.

The automobile exception applies to all types of mobile, motorized wheeled vehicles (e.g., motor homes, etc. - *California v. Carney*).

If this defendant was driving or occupying a motor vehicle at the time of this arrest, a valid arrest for a crime authorizes a warrantless search (for a reasonable time and to a reasonable extent) of a vehicle and of a closed container visible in the passenger compartment of the vehicle, when the circumstances give reason to believe that the vehicle or its visible contents may be related to the crime for which the arrest is being made (as possibly containing contraband or as having been used in the commission of the crime), or there is reason to believe that a weapon may be discovered or access to means of escape thwarted. It does not extend to the trunk of the vehicle (*People v. Belton*).

E. CONSENT TO SEARCH EXCEPTION

If a person with apparent legal control or authority over the object of a search voluntarily consents to that search, a police officer may make a search based on that consent when the officer has founded reasonable suspicion that criminal activity is afoot (People v. Saunders, NYS Court of Appeals, 02/20/92).

The key to this search is it was voluntary. Consent must be knowingly and voluntarily given in a positive manner (silence and acquiescence do not constitute consent). The consent may be oral or in writing. Consent may also be withdrawn at any time. If the consenting person withdraws his consent, the search must be terminated. Threats by the police will make this consent involuntary. The scope of the consent limits the scope of the search.

The determination as to who may legally consent to the search is the person who has a legal right of possession and control over that property so as to direct and regulate its use.

Examples of persons who can consent are a:

1. Homeowner, to search his home
2. Homeowner's spouse, to search their home
3. Parent, to search a child's room in the parent's home when the child is not paying rent, or where the child's room is not separately secured by the child or where the child does not have the authority to exclude the parent
4. Roommate or co-tenant, to search an apartment or dorm room (or areas of common/joint control) except those areas over which the non-consenting roommate has exclusive right (a private bedroom)
5. Hotel clerk, to search a vacant room having no registered guests
6. Registered owner or driver of a motor vehicle, in that order of preference. The consent of the driver will not be valid if the registered owner is present and refuses to consent.

Examples of persons who cannot consent are a:

1. Resident child, to search his parent's home
2. Landlord, to search a tenant's apartment
3. Hotel clerk, to search a paying guest's hotel room

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F. PLAIN VIEW OBSERVATION EXCEPTION

As long as the officer is legitimately on the premises, any item he observes which the officer has probable cause to believe is evidence (the fruits or instrumentalities of a crime) or contraband may be seized. The key is for the officer to justify his presence at the location where the evidence is observed (*Horton v. California*).

During the execution of a search warrant, a member may seize any evidence that comes within "plain view," even if the evidence was not an item sought in the search warrant. Whenever possible, the member will secure the property at the location and apply for an amended warrant that includes the evidence that is not listed in the original warrant.

There are limitations under this exception and you may not move property around to look for identifying serial numbers to determine if the property was stolen (*Arizona v. Hicks*). You may use flashlights to assist in illumination but you may not utilize optical magnification and enhancement devices (e.g., binoculars, telescopes, or camera/video equipment with telephoto capabilities).

G. ABANDONED OR DISCARDED PROPERTY EXCEPTION

Property abandoned or discarded may be searched and seized by police officers without a warrant. By discarding the property, a person no longer has a reasonable expectation of privacy in that property and has no standing to complain about any search that is conducted (*United States v. Lee*).

This extends to the person who discards a container as the police approach him on the street (*United States v. Eubanks*) as long as the act of discarding the item is not prompted by unlawful police conduct, but is a calculated risk taken by the individual to avoid detection and apprehension.

It also applies to individuals who place their garbage at the curb (*California v. Greenwood*).

H. OPEN FIELDS EXCEPTION

Buildings, homes, yards, and their "curtilage" are protected by the Constitution (*Oliver v. United States*). A yard is generally designated by the limits of the area where the grass is mowed or by the existence of a fence.

The exact extent of the "curtilage" is dependant upon:

1. The proximity of the area to the house
2. Whether the area is within any enclosure surrounding the house
3. The nature and use of the area, and
4. Steps the owner takes to protect the area from observation

Open fields, woods, and pastures outside the curtilage area are not protected by the Constitution unless they are fenced or signs have been posted to exclude intruders. In cases where no fences or "No Trespassing" signs are present, or there are no other overt demonstrations by the owner that the owner has an expectation that members of the public should not enter upon the land, officers may search areas beyond the curtilage of a home without a warrant because those "open fields" are not areas where society recognizes a legitimate expectation of privacy (People v. Scott, People v. Reynolds).

I. INVENTORY SEARCH EXCEPTION

The inventory search of persons arrested or vehicles or objects lawfully possessed by the police is justified for three reasons:

1. Protect an owner's property while it is in the custody of the police;
2. Protect police against claims of lost, stolen or vandalized property and;
3. Guarding police and others from dangerous instrumentalities that would otherwise go undetected.

The limitations on the authority of the police to conduct inventory searches are:

1. The property to be searched must have lawfully come into the possession of the police (e.g., DWI offenders' vehicles being towed), and
2. The inventory must be conducted pursuant to a standard departmental policy (Illinois v. Lafayette) such as G.O. 511 Vehicle Towing.

Once these limitations are met, the inventory exception allows for a warrantless search that is thorough and complete. All property discovered and secured at the Property Clerk's Office, whether of evidentiary value or not, will be noted on the Property Clerk's Report.

J. EXIGENT CIRCUMSTANCES EXCEPTION

This exception allows a police officer to make a warrantless search under situations where the officer recognizes there is no time to obtain a warrant and that, if he does not make the search or if he doesn't seize the evidence immediately, that the evidence will be lost forever.

Simply because the evidence may be lost or destroyed does not in itself justify a search under exigent circumstances. The more serious the crime, the more likely the courts are to recognize the situation as a true emergency justifying the search based on exigent circumstances.

Probable cause must exist leading one to believe:

1. A crime (misdemeanor or felony) has been or is being committed, and
2. That if immediate action is not taken, the crime will be completed, or you have reasonable suspicion that you or others will suffer physical injury or death, or you have reason to believe that evidence of the crime will be destroyed or otherwise lost (Warden v. Hayden). If a minor offense has occurred and the sole purpose for the warrantless entry is to make an arrest or to serve an appearance ticket for that offense, the exigent circumstances exception would not be applicable.

Assume you cannot use this exception in other than extremely unusual circumstances, for example:

1. Entering a home in pursuit of an armed fleeing felon
2. When you are legally at a premises investigating a minor matter and you hear what appears to be sounds, conversations, or the like, leading you to conclude that a serious physical injury crime is occurring, or is about to occur, you may enter the premise and terminate said crime.

Any search and seizure under exigent circumstances must take place immediately at the time of the occurrence of those circumstances. It cannot take place hours or days later or at another location removed from the immediate scene, or at your convenience (*Mincey v. Arizona*).

K. SEARCHES BY PRIVATE PERSONS

1. Where a private person who has no connection with the police or other governmental agency conducts a search for purely personal reasons, that person may turn over any evidence obtained in such a search to the police. Such evidence will be admissible in a criminal prosecution.
2. If the evidence is obtained solely in the course of a private search, the private person does not become an agent of the police. However, if the police instigate, request, supervise the search, or provide assistance or instructions to the private person conducting the search, or offer any reward or inducement for the search, the private person will become an agent of the police. When the private persons is acting as an agent of the police, he or she may not conduct any search that would be unlawful if conducted by the police. For example, if the search would require a search warrant if conducted by the police, a private person acting as agent of the police may not conduct the search without a search warrant.

APPENDIX II

A. SEARCHES EXPRESSLY ALLOWED BY STATUTE

1. ENVIRONMENTAL CONSERVATION SEARCHES

"Police Officers shall enforce the provisions of the Environmental Conservation Law and shall have the power to search without search warrant any boat or other vehicle of any kind...and the contents of any building other than a dwelling whenever they have cause to believe that any provision of Article 71 or of any law for the protection of fish, shellfish, crustacea, wildlife, game, or protected insects has been, or is being violated, and to use such force as may be necessary for this purpose of examination and search" (En. Con. Law 71-0525).

These searches must be consistent with the limits and purposes of said law to detect and deter En. Con. Law offenses. The search cannot be made to collect evidence for use in the prosecution of other offenses.

2. PROBATION "SEARCH ORDERS"

"If at any time during the period of probation the court has reasonable cause to believe that the defendant has violated a condition of his sentence, it may issue a search order. Such order must be directed to a probation officer and may authorize such officer to search the person of the defendant and/or any premises in which he resides or any real or personal property which he owns or which is in his possession" (N.Y.S. C.P.L. 410.50.3).

"When a probation officer has reasonable cause to believe that a person under his supervision pursuant to a sentence of probation has violated a condition of the sentence, such (probation) officer may, without a warrant, take the probationer into custody and search his person" (N.Y.S. C.P.L. 410.50.4).

"In executing a search order or in taking a person into custody, pursuant to this section, a probation officer may be assisted by a police officer" (N.Y.S. 410.50.5).

3. PAROLE SEARCHES

There are times when members of the Rochester Police Department may be requested to assist personnel from N.Y.S. Parole in searching a parolee or his place of residence.

Pursuant to the conditions of release on parole, para. 1915.10(4)(c) of the New York State Corrections Law, Article 8, the parolee agrees that: "I understand that I am legally in the custody of the department and that my person, residence, or any other property under my control may be searched by my parole officer or by any other representative of the board."

4. ADMINISTRATIVE SEARCHES - EXTERNAL

There may be occasions when members of the Department may be called on to assist with or to conduct an administrative search concerning violations of laws, rules or regulations governing regulated businesses. These are not searches for evidence, but to assure compliance by such businesses with governmental laws and requirements.

This administrative search exception is a narrow and carefully circumscribed one. In order to fall within that exception, the regulatory scheme must be pervasive and include detailed standards in such matters as, for example, the operation of the business and the condition of the premises. The inspection provisions must be part of a comprehensive administrative program that is unrelated to the enforcement of the criminal laws. Moreover, the inspections must be pursuant to an administrative warrant issued by a neutral magistrate, although they need not be based on probable cause in the traditional sense, or alternatively, the law must provide for such certainty and regularity of application as to be a constitutionally adequate substitute for a warrant (*People v. Keta*).

The following are examples of the types of businesses that may be subject to administrative searches:

- a. Firearms dealers and gunsmiths
- b. Pawnbrokers
- c. Junk dealers
- d. Scrap processors
- e. Wholesale and retail off-premise sellers of alcoholic beverages

Rochester Police Department
Search Warrant Application

STATE OF NEW YORK
COURT

COUNTY OF MONROE

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

IN THE MATTER OF THE APPLICATION OF: _____
FOR A SEARCH WARRANT TO SEARCH THE FOLLOWING: _____
TO BE SEARCHED.

_____, being duly sworg, deposes and states:
I am the applicant herein, and am a public servant, my title being _____ .
There is reasonable cause to believe that certain property herein may be found _____ .
The property sought to be seized is evidence of the crime of _____ .
The property sought to be seized consists of _____ .
In support of your applicant's assertion as to the existence of reasonable cause, the following facts are offered based upon personal investigation of you applicant and the: _____

Request is hereby made for a determination, pursuant to CPL Section 690.40 (2), that the search warrant contain an authorization for execution thereof at any time of the day or night, on the grounds that there is reasonable cause to believe that: _____

Request is also made for a determination, pursuant to CPL Section 690.40 (2), that the executing officer(s) be authorized to enter the premises to be searched without giving notice of authority or purpose on the grounds that there is reasonable cause to believe that: _____

Wherefore, your applicant requests that the Court issue a search warrant authorizing the: _____

Dated: Rochester, NY
_____, _____

X _____
APPLICANT'S NAME AND TITLE

Sworn to before me
This ____ day of _____

X _____
COURT JUDGE

STATE OF NEW YORK
COUNTY OF MONROE
ROCHESTER CITY COURT

SEARCH WARRANT

_____ COURT

Present: Honorable _____, Issuing Judge

TO ANY POLICE OFFICER OF THE _____ POLICE DEPARTMENT, MONROE COUNTY SHERIFF'S DEPARTMENT, OR NEW YORK STATE POLICE

Proof, by affidavit, having been made this day before me by _____, an Officer Investigator with the _____ Police Department, that there is probable cause to believe that the property described below may be found at the location described below.

YOU ARE HEREBY AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING PREMISES

VEHICLE PERSON: _____

The areas to be searched being the entire premises described above, to include all its storage areas and curtilage.

YOU ARE HEREBY AUTHORIZED AND DIRECTED TO SEARCH FOR THE FOLLOWING DESCRIBED PROPERTY:

You are also authorized and directed to search for items of personal property tending to show the identity of the person in ownership, dominion or control over the areas to be searched, or the things to be seized.

THIS COURT HEREBY SPECIFICALLY DETERMINES that execution of this warrant must occur between the hours of 6:00 a.m. and 9:00 p.m. (CPL 690.45 [6]).

-OR-

THIS COURT HEREBY SPECIFICALLY DETERMINES that adequate grounds exist to authorize execution of this search warrant at any hour of the day or night (CPL 690.44 [6]).

-OR-

THIS COURT SPECIFICALLY DETERMINES that entry to said premises or location must be made by giving notice of authority or purpose.

-OR-

THIS COURT SPECIFICALLY DETERMINES that adequate grounds exist for authorizing any executing police officer to enter the premises or location to be searched without giving notice of authority or purpose (CPL 690.44 [7]).

This warrant must be executed not more than ten (10) days after the date of its issuance, and any property seized pursuant hereto shall be returned and delivered to the Court without unnecessary delay.

JUDGE/JUSTICE/MAGISTRATE

_____ **Court, Monroe County, New York**

Dated: _____ , _____

_____ a.m. p.m.
Monroe County, New York

Rochester Police Department Disposition of Seized Property

STATE OF NEW YORK
_____ COURT

COUNTY OF MONROE

DISPOSITION OF SEIZED PROPERTY

NYS Criminal Procedure Law
Section 690.55, Subdivision 1-b

The Court having seized property pursuant to the within search warrant, and itemized herein, does not hereby direct that the same be held in the custody of the person who applied for said warrant, or the police officer who executed it, or the governmental or official agency or department by which either such public servant is employed, and upon order of this Court, the same shall be returned to this Court or to such other Court as may be designated.

Dated: Rochester, NY

_____, _____

Sworn to before me

This ____ day of _____

X _____
_____ COURT JUDGE

The undersigned does hereby acknowledge receipt of the property described in the within inventory, the same to be held pursuant to the above direction.

X _____
POLICE OFFICER

Rochester Police Department

Search Warrant/Dynamic Entry Planning Checklist RPD 1234

1. Name of Member(s) Obtaining Warrant: _____
2. Supervisor in Charge of Warrant Execution: _____
3. Address/Location/Name of Premise or Person to be Searched: _____

Review of Warrant and Other Required Documents

4. Application and Warrant are Accurate and Complete: DONE N/A
5. Address/Location/Name of Premise or Person to be Searched Are Accurately Identified and/or Described: DONE N/A
6. Individuals and Property to be Located, Searched and Possibly Seized are Clearly and Properly Described. DONE N/A

Pre-Warrant Execution Plan

7. Patrol Section Command Notified and Arrangements for Sufficient Uniformed Personnel, Including Supervisor made: DONE N/A
8. Anticipated Problems are Discussed and Alternate Plans are Established: DONE N/A
9. Assignments of All Personnel are Defined & Made, Including Vehicle/Car Assignments. DONE N/A
10. Evidence Processing & Photographic Teams Assigned: DONE N/A
11. Member(s) Assigned to Process Record Checks (if appropriate): DONE N/A
12. Equipment and Reports Acquired, Including: Vests or D.E. Vests, Shotgun(s), Flashlights, Handcuffs, ID's, Property Sheets/Other Reports, Gloves, Evidence Bags, Pens, Cameras, Hammers, Nails, Pry Bars, Mirrors, etc. DONE N/A
13. Floor Plan of Premise or Map of Area if available: DONE N/A
14. Copies of Search Warrant(s) and/or Arrest Warrant(s): DONE N/A
15. If Required, Make the Following Notifications: DONE N/A
- Dispatcher to clear channel, if Anticipating Large Number of Arrests.
 - Contact Records
 - Headquarters
 - Booking

Pre-Warrant Execution Briefing

16. Explanation of Type of Warrant, Plan of Execution, Discussion of: Assignments, Floor Plans, Maps, Alternate Plans, Equipment Distribution, etc. DONE N/A
17. Additional Remarks/Plans: _____

Submitted by: _____ Supervisor Reviewing: _____ Date: _____

Rochester Police Department
Consent to Search Form, RPD 1353

DATE: _____

TIME: _____

LOCATION: _____

I, _____ consent to have my premises, vehicle,
 personal property or, person to be searched by the police. I do agree and
consent to have _____ or any members of the Rochester
Police Department, conduct a complete search of:

X _____
SIGNATURE OF PERSON GIVING CONSENT

I am giving permission to these members of the Rochester Police Department to
take any item, materials or other property which they may desire. The permission
is being given by me to members of the Rochester Police Department voluntarily,
and without fear, threats, or promises of any kind.

WITNESSES:

X _____ X _____
SIGNATURE OF PERSON GIVING CONSENT

X _____

7 F #9F 5 C: 'H<9 '9A9F; 9B7MH5 G? ': CF79
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B5 F7 CH7 G'5 B8 'CH<9F': 9 @CBMK 5 FF5 BHG

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- 1. The suspect or people present are believed to be armed or known to be shooters; and/or
- 2. The presense of any type of automatic weapons; and/or
- 3. The circumstances are unusual and beyond the capabilities of "normal" warrant services, such as:

- heavy fortification;
- second floor entries;
- weapons, not just automatics, that are known to be close to the people or suspects;
- large apartment buildings;
- location has been the target of a previous warrant, especially with ETF warrant assistance;
- large stash of weapons (automatics or not);
- specialized training of individuals involved;
- vicious dogs;
- other _____ and/or;

- 4. The propensity for violence exists, either currently, or the targets have committed a violent act in the past.

If your warrant meets one or more of the above listed criteria, ETF should be requested. Articulate how the warrant meets the above criteria:

7 ca d`YH' h]g'g\ YHUbX'gi Va]hlc`nci f'7 ca a UbX]b['CZ]Wf 'f7 C'L" The CO of your division/unit will then make a determination whether or not to contact the Commanding Officer of the Emergency Task Force. Once contacted, the ETF CO will review the criteria and obtain approval for ETF involvement through the appropriate chain of command, as outlined in GO 630. Once permission is obtained, the ETF CO will contact the division/unit platoon CO and the person requesting ETF involvement, and begin the planning stage of the warrant.

The above criteria should never preclude you from contacting an ETF Supervisor if you have any questions or concerns on the possible utilization of ETF.