



# NIAGARA REGIONAL POLICE SERVICE

## Police Services Board Report

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**Subject:** Office of the Independent Police Review Director Notification Letter to Ontario Police Services “Knock and Announce” Rule

**Report To:** Chair and Members, Niagara Police Services Board

**Report Date:** 2023-09-18

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### Recommendation(s)

**That the Niagara Police Services Board receive this report for information and to provide comments to the Office of the Independent Police Review Director (OIPRD) regarding the Niagara Regional Police Service review and amendments of General Order 117 (GO 117 ) – Search and Seizure related to OIPRD recommendations related to the Knock and Announce rule.**

### Key Facts

- The purpose of this report is to provide the Board with information regarding the Niagara Regional Police Service (NRPS) review and amendments of GO-117 Search and Seizure related to Office of the OIPRD recommendations related to the Knock and Announce rule.
- The Service has reviewed and amended GO-117 Search and Seizure as recommended by the OIPRD relating to the Knock and Announce rule.

### Financial Considerations

There are no financial implications relating to the recommendations in this report.

### Analysis

On November 18, 2022, the OIPRD issued a Notification Letter to the Ontario police services pertaining to the Knock and Announce rule. To that end, the OIPRD made several recommendations to the police services to assist in modifying their procedures to enhance public trust and promote best policing practices that align with current case law.

The OIPRD recommended that police services review and modify their relevant policies and procedures on dynamic entries to ensure that it is reflective of case law and include various mechanisms for monitoring and documenting the process. Key elements should

include supervisory oversight and approval; a documented plan with clearly stated reasons and a consideration of alternative approaches; required note taking and reporting after execution; as well as the provision of information to the impacted person to promote a better understanding for members of the public.

The OIPRD offered the following specific recommendations and encouraged each service to review, compare, and evaluate best practices within their specific context.

- Conduct a review of your policies relating to the execution of search warrants to ensure it complies with established jurisprudence with respect to dynamic entries and the departure from the Knock and Announce rule.
- Consider developing policies on the execution of search warrants and dynamic entries which identify the parameters set out by the courts and expressly set out the following:
  - The departure from the Knock and Announce rule only occurs in exigent circumstances.
  - The requirements before departing from the Knock and Announce rule. For instance, a clear supervisory approval process; what information needs to be known to officers; and prescribed circumstances when officers may depart from the rule.
  - The need for a documented plan and risk assessment to be created prior to the execution of all search warrants. The plan and risk assessment could include information about the presence of suspect(s) in the premises; presence of firearms; history of firearms in the premises; potential for violence by suspect(s) or occupants; an assessment of risk; the entry plan, including the feasibility of a non-dynamic entry; and justification for the entry plan.
  - The reporting requirements after the execution of a search warrant. For instance, police officers should include in their notes and other records whether a door knock occurred, who made the decision to depart from the Knock and Announce rule, and any injuries sustained on the part of the police and the occupants.
- Review and consider best practices from other police services in Ontario that outline the expectations of police officers.
- While keeping in mind investigative integrity and any privacy concerns, consider providing information to occupants of residences to increase their understanding of why the police departed from the Knock and Announce rule. Further, consider

providing information to address damage to property that often occurs during a dynamic entry.

- Consider tracking how often your officers depart from the Knock and Announce rule; how often such departures involve arrests or the seizure of evidence; and the injuries sustained during these types of searches.
- Consider the development and delivery of periodic training for your members on police Charter obligations during the execution of search warrants.

On August 17, 2023, the OIPRD issued a notification update on the Knock and Announce rule.

The update indicated that the Toronto Police Service (TPS) promptly initiated steps to consider and revise its procedure on Executing a Search Warrant as well as afforded the OIPRD several opportunities to review the draft procedure and provide feedback.

The OIPRD advised that the TPS Procedure 02-18 Executing a Search Warrant, reflects the intentions and goals of the OIPRD's notification and more closely aligns with the current case law.

The OIPRD recommend that other police services consider adopting the TPS procedure, in accordance with their specific context and operational needs. A copy of the TPS Procedure 02-18 Executing a Search Warrant was enclosed and was also posted on the OIPRD's website.

The NRPS reviewed the TPS Procedure and compared the document to NRPS GO-117 Search and Seizure, for compliance with the recommendations.

The NRPS modified GO-117 to include the following:

- Prior to conducting a search of premise, officers must establish a clear legal authority and purpose for conducting the search, and the search must be conducted in a reasonable manner.
- The officer in charge of supervising the search shall ensure searches are carried out in accordance with the terms of the warrant, and that entry to the premises or property will be preceded by an announcement, unless deviating from the statutory requirement is justified under the conditions outlined below.
- When deviating from the statutory requirement to announce entry, the supervisor must articulate reasonable grounds to be concerned about the destruction of evidence; and/or reasonable grounds to be concerned about the possibility of harm to themselves or occupants that amounts to reasonable suspicion that weapons are present or that violence will be used following an announced entry.

- The assessment of risk factors and entry plan should consider, but not be limited to, factors such as presence/availability of weapons, history of violence, size and layout of premises, type of evidence sought and ease with which it could be destroyed, mental state of persons who may be present, the presence of potential bystanders, and other safety factors specific to the circumstances of the warrant being executed. The entry plan shall consider alternatives for entry, and they shall be documented accordingly.
- The decision to deviate from the requirement to announce entry prior to executing a search warrant is an operational decision made by the supervisory officer in charge of the entry and does not require advanced judicial authorization. Affiants should not request “No Knock Entries” in the Information to Obtain when applying for a search warrant.
- Document the reasons for their decision that give rise to their belief that an entry without prior announcement is lawful, and ensure those reasons are known to the entry/search team prior to entry, where possible.
- Ensure all members participating in the search warrant entry and/or investigation are provided with a search warrant briefing package, where operationally feasible.
- Ensure all members participating in the search warrant entry and investigation are fully briefed on the plan to execute the search warrant including:
  - whether entry is to be announced or unannounced
  - reason for the search/offences alleged
  - each officers’ duties
  - complete description of articles being sought
  - safety considerations
  - method of entry
  - entry plans
- When it is anticipated that damage to property will occur while executing a search warrant, investigators shall have a Scenes of Crime Officer, or a member of the Forensic Services Unit attend the scene and photograph any damage caused as a result of the entry to the premise.
- Warrants issued under the Criminal Code s. 529, commonly referred to as Feeney Warrants, are separate and distinct from search warrants issued under other sections. As a result, Feeney warrants have legal requirements that are different than search warrants. When applying for a warrant under section 529 Feeney warrant, officers must receive prior judicial authorization to enter a dwelling house without prior announcement.

- The Criminal Code s.529.4 stipulates that, when executing a Feeney warrant, a peace officer must receive specific authorization from a judge or justice to enter a dwelling house without prior announcement and such authorization will only be granted where the judge or justice is satisfied that there are reasonable grounds to believe that a prior announced entry would:
  - expose the peace officer or any other person to imminent bodily harm or death; or
  - result in the imminent loss or imminent destruction of evidence relating to the commission of an indictable offence.
- Even when an unannounced entry on a Feeney warrant has been authorized, officers must have reasonable grounds that at least one of the two conditions listed above still applies at the time of entry. There are limited circumstances in which the law allows for an unannounced entry on a Feeney warrant without specific, prior judicial authorization.

Based upon these amendments made to the NRPS GO-117 Search and Seizure, the OIPRD recommendations related to the Knock and Announce rule have been adopted.

### **Alternatives Reviewed**

Not applicable.

### **Relationship to Police Service/Board Strategic Priorities**

The NRPS is committed to providing effective and efficient policing services to the citizens and visitors of the Niagara Region. Our business practices are guided by legislation, Police Services Act Adequacy Standards, and Police Services Board By-Laws. These proposed amendments to GO-117 Search and Seizure are directly related to complying with legislation and several Community Engagement and Collaboration goals, to continue to build trust with our community as identified in the 2022-2025 Strategic Plan.

### **Relevant Policy Considerations**

- Board By-Law 203/204 - 2000 Search and Seizure
- GO-117 – Search and Seizure

### **Other Pertinent Reports**

Not applicable.

*This report was prepared by Superintendent Luigi Greco, Executive Service, in consultation with Superintendent Todd Waselovich, Emergency and Investigative Services. It is recommended by Luigi Greco, Acting Deputy Chief, Support Services.*



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**Submitted by:**  
Brett Flynn, M.O.M. #9295  
Acting Chief of Police

**Appendices**

Not applicable.

**November 18, 2022**

**Ontario Police Chiefs**

**Thomas Carrique**

Commissioner

Ontario Provincial Police

Dear Sirs and Madams:

**Re: Notification Letter to Ontario Police Services  
“Knock and Announce” Rule (Dynamic Entries)**

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The Office of the Independent Police Review Director (OIPRD) has a statutory obligation to monitor issues that result in a loss of public trust in the police. The agency has fulfilled this obligation by conducting systemic reviews which dealt with issues from policing the [right to protest](#), and [systemic racism](#).

However, I introduced a notifications program to proactively identify issues which, if left unaddressed, are likely to result in a loss of public trust in the police. The overall goal of this program is preventing policing issues from becoming systemic. For example, I issued a notification about [strip search](#) and Ontario police services responded positively by revising policies, procedures, and training to align with current caselaw and best policing practices. The [Guideline for Publishing Notification Letters](#) sets out the content of notification letters, the expectations of police services and police services boards, and highlights that the notifications letters and any responses from the police services and/or police services boards would be published on the OIPRD’s website.

### Dynamic Entries

My review of public complaints arising from dynamic entries, or police departing from the “knock and announce” rule during the execution of search warrants at residences, indicates that if chiefs of police and the OPP Commissioner examine dynamic entries they could prevent further public complaints related to them, enhance public trust, and promote best policing practices that align with current caselaw.

## Legal Context

Section 8 of the *Canadian Charter of Rights and Freedoms* states that everyone has a right to be secure against unreasonable search or seizure and in order to safeguard this right during the execution of search warrants at residences, the police must, as a general rule, knock and announce their presence before entering a home. However, public safety and preventing the destruction of evidence may relieve police of the “knock and announce” requirement. In other words, in certain situations, it would be reasonable for the police to utilize a dynamic entry when executing a search warrant.

There is an established body of case law addressing the requirements of the police when they depart from the “knock and announce” rule. Notably, the onus is on the police to explain why, based on evidence known to them at the time of executing the search, they departed from the general rule.

## OIPRD Review of Dynamic Entries

In exercising my mandate under the *Police Services Act*, I reviewed police policies on the execution of search warrants and identified deficiencies that require attention. For instance, some police services’ policies are silent on the issue of dynamic entries and departing from the “knock and announce” rule. Others do not have a clear approval process for departing from the “knock and announce” rule or make it clear that doing so should be exceptional rather than the norm. Many policies also did not provide clear guidelines for record keeping or documentation of the process.

Notably, I found that some police officers did not adequately document in their notes or otherwise, their assessment of the “knock and announce” rule and why they determined that a dynamic entry was warranted in a given situation. Moreover, in reviewing public complaints, I noted that the public lacks an understanding of police powers during a search, and police officers were unable to properly articulate their reasons for departing from the “knock and announce” rule.

In my view, if left unaddressed, such deficiencies combined with a lack of understanding by the public, and inability of the police to explain their actions, are likely to result in further public complaints and erode public trust in the police.

Accordingly, I’m issuing this notification on the issue of dynamic entries. Overall, it is recommended that police services review and modify their relevant policies and



procedures on dynamic entries to ensure that it is reflective of case law and include various mechanisms for monitoring and documenting the process. Key elements include supervisory oversight and approval; a documented plan with clearly stated reasons and a consideration of alternative approaches; required note taking and reporting after execution as well as the provision of information to the impacted person to promote a better understanding for members of the public. To this end, I am offering the following specific recommendations and encouraging each service to review, compare, and evaluate the “best practices” within their specific context.

- Conduct a review of your policies relating to the execution of search warrants to ensure it complies with established jurisprudence with respect to dynamic entries and the departure from the “knock and announce” rule.
- Consider developing policies on the execution of search warrants and dynamic entries which identify the parameters set out by the courts and expressly set out the following:
  - The departure from the “knock and announce” rule only occurs in exigent circumstances.
  - The requirements before departing from the “knock and announce” rule. For instance, a clear supervisory approval process; what information needs to be known to officers; and prescribed circumstances when officers may depart from the rule.
  - The need for a documented plan and risk assessment to be created prior to the execution of all search warrants. The plan and risk assessment could include information about the presence of suspect(s) in the premises; presence of firearms; history of firearms in the premises; potential for violence by suspect(s) or occupants; an assessment of risk; the entry plan, including the feasibility of a non-dynamic entry; and justification for the entry plan.
  - The reporting requirements after the execution of a search warrant. For instance, police officers should include in their notes and other records whether a door knock occurred, who made the decision to depart from the “knock and announce” rule, and any injuries sustained on the part of the police and the occupants.

- Review and consider best practices from other police services in Ontario that outline the expectations of police officers.
- While keeping in mind investigative integrity and any privacy concerns, consider providing information to occupants of residences to increase their understanding of why the police departed from the “knock and announce” rule. Further, consider providing information to address damage to property that often occurs during a dynamic entry.
- Consider tracking how often your officers depart from the “knock and announce rule”; how often such departures involve arrests or the seizure of evidence; and the injuries sustained during these types of searches.
- Consider the development and delivery of periodic training for your members on police *Charter* obligations during the execution of search warrants.

I ask that each chief of police, and the OPP Commissioner consider these recommendations, and reply to this letter with their proposed course of action. As per the [Guideline for Publishing Notification Letters](#), this notification letter and your individual responses will be published on the OIPRD’s website.

Respectfully submitted,



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**Stephen Leach**  
Independent Police Review Director

Encl. Summary of Jurisprudence on the Knock and Announce Rule

cc.  
**Ken Weatherill**  
Inspector General of Policing

August 17, 2023

Thomas Carrique  
Commissioner of the Ontario Provincial Police  
Ontario Provincial Police

Ontario Police Chiefs

Police Services Boards Chairs

Sirs and Madams:

**Re: Notifications Update on Knock and Announce Rule (Dynamic Entries)**

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On November 18, 2022, the Office of the Independent Police Review (OIPRD) issued a Notification Letter to the Ontario police services pertaining to “Knock and Announce” Rule (Dynamic Entries). To that end, the OIPRD made several recommendations to the police services to assist in modifying their procedures to enhance public trust and promote best policing practices that align with current caselaw. The responses from police services are available on the OIPRD’s website at: <https://www.oiprd.on.ca/notifications>.

Notably, the Toronto Police Service promptly initiated steps to consider and revise its procedure on Executing a Search Warrant (“Procedure”) as well as afforded the OIPRD several opportunities to review the draft Procedure and provide feedback. I am pleased to advise that the Toronto Police Service Procedure 02-18 “Executing a Search Warrant” reflects the intentions and goals of the OIPRD’s Notification and more closely aligns with the current case law. I commend the Toronto Police Service’s commitment to reviewing and revising its policies and training, and I’m confident that these revisions and proposed trainings will be steps towards enhancing public confidence in police.

As many other police services have already started reviewing and revising their procedure, I recommend that they consider adopting the Toronto Police Service Procedure, in accordance with their specific context and operational needs. A copy of the Toronto Police Service Procedure 02-18 “Executing a Search Warrant” is enclosed and also posted on the OIPRD’s website at: <https://www.oiprd.on.ca/notifications>.

Thank you for your continued work on this very important policing issue.

Sincerely,



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Stephen Leach  
Independent Police Review Director

Encl. Toronto Police Service Procedure 02-18 - Executing a Search Warrant

c/c: The Honorable Michael Kerzner  
Solicitor General

Mario Di Tommaso  
Deputy Solicitor General  
The Ministry of the Solicitor General

Ryan Teschner  
Ontario Inspector General of Policing



# 02-18 Executing a Search Warrant

Status: Amended

Issued: 2023.06.22

Replaces: 2020.01.03

## Rationale

This procedure details the requirements of police officers when applying for, and executing search warrants pursuant to the *Criminal Code*, the *Controlled Drugs and Substances Act*, and other Acts.

## Supervision

- Supervisory Officer attendance mandatory when executing a search warrant
- Officer in Charge (OIC) notification mandatory when planning to execute a search warrant

## Procedure

A search warrant is a signed written order, which authorizes peace officers within the territorial jurisdiction to enter a dwelling house, building, receptacle or place to seize evidence with respect to the commission, suspected commission or intended commission of an offence.

The appropriate application, along with the proper and lawful execution of search warrants will help to increase the likelihood of successful prosecutions.

- ➔ In order to ensure that members are familiar with the legal requirements for applying for and executing search warrants, please refer to [Appendix A](#) for the list of relevant courses where this material is covered in training.
- ➔ All members equipped with body-worn camera (BWC) equipment during the execution of a search warrant, shall comply with Procedure [15-20](#) “Body-Worn Camera”, as applicable.

### Criminal Code s. 529 Arrest Warrants (Feeney Warrants)

Warrants issued under the *Criminal Code* s. 529, commonly referred to as “Feeney Warrants”, are separate and distinct from search warrants issued under other *sections*. As a result, Feeney warrants have legal requirements that are different than search warrants. When applying for a warrant under section 529 (Feeney warrant), officers must receive prior judicial authorization to enter a dwelling house without prior announcement.

The *Criminal Code* s.529.4 stipulates that, when executing a Feeney warrant, a peace officer **must receive specific authorization from a judge or justice** to enter a dwelling house without prior

announcement and such authorization will only be granted where the judge or justice is satisfied that there are reasonable grounds to believe that a prior announced entry would

- expose the peace officer or any other person to imminent bodily harm or death; or
- result in the imminent loss or imminent destruction of evidence relating to the commission of an indictable offence.

Even when an unannounced entry on a Feeney warrant has been authorized, officers **must have reasonable grounds** that at least one of the two conditions listed above still applies at the time of entry. There are limited circumstances in which the law allows for an unannounced entry on a Feeney warrant absent specific, prior judicial authorization.

The requirements for executing a Feeney warrant can be found in Procedure [01-01](#) “Arrest”.

### Plainclothes Officers

1. While executing a search warrant, non-uniformed officers shall wear their soft body armour and, if available, a raid jacket ensuring that the word POLICE is clearly displayed on either the body armour carrier or the jacket unless identifying themselves as police would
  - place the officer at risk of serious harm, or
  - risk the imminent loss or destruction of evidence, or
  - compromise a current or future investigation, or
  - when authorized by a Judicial Order

➔ *When executing a search warrant at financial institutions, hospitals or similar type facilities, the requirement for wearing a raid jacket or body armour shall be at the discretion of the case manager in charge of the investigation.*


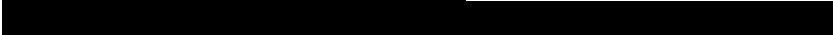
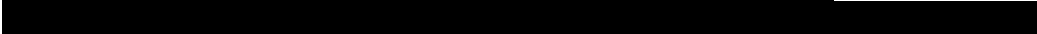
### Supervisory Officer in Charge of Search Warrant Entry

- ➔ *The supervisory officer will be a Sergeant or Detective from the unit that obtained the search warrant unless relieved by a higher-ranking officer. A supervisor shall be present for the execution of all search warrants unless unforeseen or unplanned circumstances necessitate the search warrant to be executed forthwith and prior to the arrival of a supervisor. If this occurs, the member making this decision will assume all responsibilities of the Supervisory Officer in Charge of the Search Warrant Entry and shall notify a supervisor of the circumstances as soon as practicable. The member will assume these responsibilities until relieved by a higher-ranking officer.*
2. Where a Detective from the unit that obtained the search warrant is not able to attend
  - a uniform Sergeant or a Detective, ideally from the Division within which the warrant is being executed, will attend and fulfill this role
  - if in attendance, the Emergency Task Force (ETF) Special Weapons Team (SWT) Sergeant will fulfill this role until all occupants are secured and the premises has been deemed by the ETF safe and can be searched by the unit who obtained the warrant
3. Where it is anticipated that the premises to be searched will be occupied by individuals in any state of undress (partial or complete), shall make efforts to deploy personnel in a manner sensitive and appropriate to each situation in order to respect the dignity of any person encountered therein having regard to human rights principles.
4. The supervisory officer or ETF Sergeant on scene shall

- consult with the case manager in order to conduct an assessment of risk factors and entry plan for the search warrant given the specific circumstances of the investigation
  - ensure searches are carried out in accordance with the terms of the warrant and that entry to the premises or property will be preceded by an announcement, unless deviating from the statutory requirement is justified under the conditions outlined below
    - ➔ *When deviating from the statutory requirement to announce entry, the supervisor must articulate*
      - *reasonable grounds to be concerned about the destruction of evidence (Evidentiary); and/or*
      - *reasonable grounds to be concerned about the possibility of harm to themselves or occupants that amounts to reasonable suspicion that weapons are present or that violence will be used following an announced entry (Safety Concerns).*
    - ➔ *The assessment of risk factors and entry plan should consider, but not be limited to, factors such as presence/availability of weapons, history of violence, size and layout of premises, type of evidence sought and ease with which it could be destroyed, mental state of persons who may be present, the presence of potential bystanders, and other safety factors specific to the circumstances of the warrant being executed. The entry plan shall consider alternatives for entry, and they shall be documented accordingly.*
    - ➔ *The decision to deviate from the requirement to announce entry prior to executing a search warrant is an operational decision made by the supervisory officer in charge of the entry and does not require advance judicial authorization. Affiants should not request “no knock entries” in the Information to Obtain when applying for a search warrant. [As noted above, this does not apply to Feeney warrants.]*
  - document the reasons for their decision that give rise to their belief that an entry without prior announcement is lawful and ensure those reasons are known to the entry/search team prior to entry, where possible
  - ensure all members participating in the search warrant entry and/or investigation are provided with a search warrant briefing package, where operationally feasible
  - ensure all members participating in the search warrant entry and investigation are fully briefed on the plan to execute the search warrant including
    - whether entry is to be announced or unannounced
    - reason for the search / offences alleged
    - each officers’ duties
    - complete description of articles being sought
    - safety considerations
    - method of entry
    - entry plans
  - ➔ *It may be necessary to split or delegate briefing responsibilities if operationally required. The person providing the briefing will document who was present at their briefing and the details of the search warrant plan as described above.*
5. For any warrant being executed by the ETF, the Sergeant of the SWT making the entry shall
- make the final decision on the manner of execution of the search warrant (announced/unannounced), unless relieved of these duties by a higher ranking ETF officer
  - for announced entry
    - ensure the SWT enters the premises and secures all the occupants
    - once satisfied that all occupants in the premises have been secured and the location is safe, turn the premises and occupants over to investigators

- for unannounced entry
  - inform the case manager of the reason(s) for an unannounced entry to allow the case manager to relay this information to the primary occupant(s) following execution where appropriate
  - ensure the case manager has the required information to allow for it to be captured in the applicable eReport
- 6. The supervisory officer shall
  - ensure that the assessment of risk factors and entry plan are noted, to the extent possible, prior to entry
  - ensure the required eReports and accompanying template are completed in full
  - ensure that all members comply with Procedure [15-20](#) “Body-Worn Camera”
  - ensure the case manager has complied with items 11 and 12
  - in the event that a search warrant has been executed at an incorrect address, ensure their Detective/Staff Sergeant are notified at the first available opportunity

### Case Manager in Charge of the Investigation

- 7. When planning to execute a search warrant shall
  - prepare a briefing package, when operationally feasible, that includes but it not limited to the following information
    - designate an officer to be in charge of each search team
    - designate an exhibit officer who shall be responsible for
      - ensuring the continuity of all property and controlling all property seized
      - recording and initialing property seized as exhibits for court purposes
      - completing the TPS 405 and the applicable property eReports, in compliance with applicable procedures in [Chapter 9](#)
    - designate a recording officer who shall be responsible for recording
      - the names and badge numbers of all police officers participating in the search
      - the details for any subsequent investigation, hearing or judicial proceeding, including the names of persons found on the premises, time and location where the item was seized, and the name of the officer who located the seized item
      - the background of the suspects
      - the physical layout, or floor plan, of the place to be searched
      - the number of persons expected to be present during the execution of the warrant
      - if firearms or other weapons may be present
  - determine if members of Detective Operations – Forensic Identification Services (FIS) may be required for the purpose of photographing the premises or property seized
  - use the following recommended ratios of police officers to supervisors as a guide
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    - 
  - document the reason uniform officers are excluded
  - when operationally possible, shall consider the gender of individuals expected to be found at the location
  - consider setting up containment of the address regardless of the type of search
  - arrange for the attendance of a supervisory officer
  - notify the OIC – Toronto Police Operations Centre (TPOC) of the
    - address or location
    - type of premises
    - type of warrant
    - expected time the search warrant will be executed



- potential hazards
  - number of officers, both uniform and plainclothes, expected to be present
  - attendance of any other service/agency
  - notify the OIC of the Division having jurisdiction in the area where the search warrant is to be executed of the
    - address or location
    - expected time the search warrant will be executed
8. Where it is anticipated that the premises to be searched will be occupied by individuals in any state of undress (partial or complete), shall make efforts to deploy personnel in a manner sensitive and appropriate to each situation in order to respect the dignity of any person encountered therein having regard to human rights principles
- ➔ *Searches of a sensitive nature may require a senior officer to attend, regardless of the number of officers involved. Such searches shall be conducted only after consulting with the Deputy Chief – Specialized Operations Command, or when not available, the Duty Senior Officer – Toronto Police Operations Centre. Officers shall also comply with Procedure [15-20](#) “Body-Worn Camera”.*
9. When planning to execute a search warrant, and firearms or other weapons are suspected, shall notify an on duty ETF supervisor or designate and request the ETF attend and execute the search warrant.
- ➔ *Operations can be dynamic and there may be situations where the ETF is otherwise occupied and/or unable to execute an entry where firearms or other weapons are suspected. In those instances, the supervising officer conducting the search warrant entry and subsequent search shall document the reasons for that decision and notify their Unit Commander at the first available opportunity.*
10. When rendezvousing with police officers prior to a search, shall:
- provide a briefing package outlined in item 7 to all members attending and executing the search warrant, if operationally feasible
  - brief all members, prior to a search
  - fully brief the supervisory officer or ETF Sergeant with all relevant facts and circumstances of their investigation
  - ensure the briefing provides sufficient information to permit the supervisory officer or ETF Sergeant in making justifiable decisions on the manner of search, including, but not be limited to, the following
    - opportunity to view the warrant, offences alleged, and complete description of articles sought
    - information to assess announcement requirements as outlined in item 4
    - reason for the search
    - any other information requiring special consideration
11. When executing a search warrant shall
- obtain a key to the premises, or place to be searched, if possible
  - ascertain the name of the owner, landlord, tenant, occupant or agent in charge of the premises
  - ensure proper announcement is made prior to entry (identification, purpose of entry, etc.) except as described in items 2, 4, and 5 of this Procedure
  - provide a copy of the search warrant (including Appendices A and B) to the owner, agent or occupant of the place to be searched prior to beginning the search if possible, and if not, as soon as possible thereafter
  - record in the applicable eReport the following
    - time, date, place and name of the officer providing a copy of the warrant

- name of the person receiving the copy
    - reasons if a copy of the search warrant was not given before the search began
  - conduct the search in such a manner as to minimize damage, or disturbance, to the building and contents (the manner of search should be reasonable and consistent with the items to be searched for as per Appendix "A")
  - conduct the search in the presence of the owner, agent, occupant or other police officer in order to corroborate findings, unless
    - the owner, agent or occupant is not present when police enter the premises or during the search
    - the owner, agent or occupant does not wish to accompany the searchers, in which case the refusal is to be recorded
    - extenuating circumstances make an accompanied search impracticable, in which case the circumstances be documented
  - ensure video and photographs are taken of the premise prior to actively searching and then post completion of the search
    - ➔ *If photographic documentation of the scene is not done, the supervisor shall document the reasons for not doing so, as well as document all efforts they have made to obtain photos and/or video.*
  - ensure video and/or photographs are taken when evidence of significance are located, whenever possible
  - provide the owner, or occupant, with the names and badge numbers of all officers participating in the search, if requested and where the entry to the property was unannounced provide a brief rationale for the reason for the lack of announcement, except where doing so would expose the officers to risk of injury or compromise an ongoing investigation or prosecution
  - ensure that a completed copy of [TPS 990](#) is provided to the owner or occupant
  - when the owner, agent or occupant is not present during the search, leave a copy of the search warrant (including Appendices A and B) and completed TPS 990 in a sealed envelope inside the premise.
  - upon completion of a search where the owner, agent or occupant is not present, ensure the premises are left secure, or in the control of a competent person
    - ➔ *In circumstances where a search warrant has been granted for something other than a physical premises, neither the [TPS 990](#) nor the Assessment of Risk Factors and Entry Plan text template need to be completed. However, an eReport is still required. These circumstances include but are not limited to searches of*
      - cell phones, laptops, or other electronic devices
      - receptacles such as bank safety deposit boxes
      - records or electronic records
      - desks, lockers, or other receptacles found within government-run facilities
12. When searching persons found in the premises relating to a search warrant shall do so in compliance with Procedure [01–02](#).
13. When property is seized shall
- ensure the owner, agent or occupant is present at the location being searched, when possible
  - before seizing an item, attempt to ensure the owner, agent or occupant is brought to the room or site where the item was found, when possible
  - where possible, count or itemize money, or valuables, in the presence of a supervisor
  - where possible, count or itemize money, or valuables, in the presence of the owner or occupant
  - handle seized property and complete the applicable eReports in compliance with the applicable procedures in [Chapter 9](#)

14. When seizing weapons and firearms under ss. 117.02, 117.03 and 117.04 of the *Criminal Code* shall comply with Procedure [05-21](#).
15. After a search warrant has been executed shall
  - advise the OIC - TPOC that the search warrant has been executed
  - advise the OIC of the Division or detachment having jurisdiction in the area where the warrant was executed of
    - the address/location where the search warrant was executed
    - the time and date of execution
    - the name, rank, badge number and unit of the case manager in charge of the search
    - whether charges are laid
  - comply with the applicable procedures in [Chapter 1](#) and [Chapter 12](#) if an arrest has been made
  - complete a “Search Warrant Executed - Announced Entry” eReport or where an entry was made without prior announcement, the supervisory officer authorizing that entry will complete a “Search Warrant Executed Without Prior Announcement” eReport, along with a completed Search Warrant Assessment of Risk Factors and Entry Plan template
  - include the following in the eReport
    - a copy of the search warrant (including Appendices A and B)
    - based on the assessment of risk factors and entry plan, the reason(s) why the entry was made without announcement
    - the name, rank, badge number and unit of the case manager in charge of the search
    - supervisory officer or ETF Sergeant present during the execution of the search warrant
    - any related eReport numbers, if applicable
  - retain the original search warrant
  - comply with Procedure [02-17](#) if a Prohibition of Access Order is deemed necessary
  - comply with Procedure [02-19](#)
  - add supplementary information to the original eReport, outlining the particulars of any Reports to a Justice or hearings for Continued Detention held subsequent to the execution of the search warrant, including the date and disposition of any hearing
16. Prior to executing a search warrant outside the boundaries of Toronto shall
  - ensure the issuing Justice has authority in the jurisdiction in which the search warrant is to be executed
  - notify the OIC of the Division or detachment having jurisdiction in the area where the search warrant is to be executed of the address/location and the expected time the search warrant will be executed
  - arrange with the local police agency to have an officer accompany the search team

When property is seized during the execution of a search warrant outside the boundaries of Toronto shall surrender custody of such property to the local police agency if the prosecution of any charges will proceed in that jurisdiction.

### Staff/Detective Sergeant

17. When consulted by a case manager in charge of an investigation who is planning to execute a search warrant shall ensure
  - sufficient personnel attend
  - specific details regarding the premises, the individuals and items that may be encountered, are provided
  - officers are designated to specific tasks
  - officer safety
  - a proper search will be conducted
  - a supervisory officer is present for the execution of the search warrants

18. When notified by an officer from another police service who is planning to execute a search warrant within the boundaries of Toronto shall
  - assign sufficient personnel if requested, as practicable
  - ensure a supervisor notifies TPOC via telephone or [email](#) of the
    - address or location
    - type of warrant
    - expected time the search warrant will be executed
    - potential hazards
    - number of officers, both uniform and plainclothes, expected to be present
    - name of service/agency executing the search warrant
  - after the search warrant has been executed, ensure the applicable Search Warrant Executed eReport is completed, which includes the name, rank, badge number, service/agency of the case manager in charge of the search
19. When members under their supervision execute a search warrant, shall review all eReports including any briefing package and the Assessment of Risk Factors and Entry Plan template for completeness.
20. When notified that a search warrant has been executed at an incorrect address shall advise the Unit Commander of the circumstances at the first available opportunity.

### Unit Commander

21. When advised that a search warrant has been executed at an incorrect address shall advise the Staff Superintendent of the circumstances at the first available opportunity and ensure
  - the matter is thoroughly investigated
  - appropriate action is taken
  - the matter is documented
  - members comply with Procedure [18-04](#) “Third Party Claims for Damage to or Loss of Private Property”

## Taxation Search Warrant

### Member

22. When receiving a request for police officers to accompany Revenue Canada investigators for the purpose of executing a Taxation Search Warrant shall refer the requester to the Staff Superintendent – East Field Command or the Staff Superintendent – West Field Command, as appropriate.

### Police Officer

23. When assigned to accompany Revenue Canada investigators for the purpose of executing a Taxation Search Warrant shall ensure there is no breach of the peace.

# Appendices

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[Appendix A – List of Search Warrant Associated Courses](#)

## Supplementary Information

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### Governing Authorities

**Federal:** Canada Evidence Act; Controlled Drugs and Substances Act; Criminal Code.

**Provincial:** Police Services Act; Police Services Act, O. Reg 3/99, Adequacy & Effectiveness of Police Services; Provincial Offences Act.

**Relevant Case Law:** R. v. Cornell (Supreme Court of Canada) (2010)

### Associated Governance

**TPSB Policies:**

- Adequacy Standards Compliance Policy - Part 4 XX ER-002\ER-003 Tactical and Hostage Rescue Unit;
- Adequacy Standards Compliance Policy - Part 5 XXXVIII LE-011 Search of Premises;
- Adequacy Standards Compliance Policy - Part 5 XLVII LE-020 Collection, Preservation and Control of Evidence and Property;
- Board Policy - Body-Worn Cameras; and
- Board Policy - Police Attendance at Locations Occupied Solely by Women in a State of Partial or Complete Undress.

**TPS Procedures:**

- [Chapter 1](#) Arrest & Release;
- [02-17](#) Obtaining a Search Warrant;
- [02-19](#) Report to a Justice/Orders for Continued Detention;
- [04-09](#) American Sign Language and Language Interpreters;
- [04-21](#) Gathering/Preserving Evidence;
- [05-21](#) Firearms;
- [08-06](#) Hazardous Materials, Decontamination and De-infestation;
- [08-07](#) Communicable Diseases;
- [Chapter 9](#) Property;
- [10-02](#) Incidents Involving Hazardous Materials;
- [10-05](#) Incidents Requiring the Emergency Task Force;
- [10-11](#) Clandestine Laboratories and Marihuana Grow Operations;
- [Chapter 12](#) Courts;
- [13-17](#) Notes and Reports;
- [15-19](#) Soft Body Armour;
- [15-20](#) Body-Worn Camera;
- [18-04](#) Third Party Claims for Damage to or Loss of Private Property.

**Forms:** eReports; TPS 405 Property Receipt; [TPS 990](#) Notice to Owner/Occupant.

## Definitions

For the purposes of this Procedure, the following definitions will apply:

**Case Manager in Charge of the Investigation** for the purposes of executing a search warrant means the officer most familiar with the investigation, and not necessarily the supervisor on the scene.

**Justice** means a Justice of the Peace or a Provincial Court Judge (Source: S. 2 CC).

**Announced Entry** is generally the intentional communication to the occupant of a place as to the presence of the police, the authority for the entry and the purpose of the entry before entry is made. This is commonly achieved by knocking at the door or ringing a doorbell, identifying as police officers and advising that there is a search warrant and that entry is required to execute that warrant.

**Unannounced Entry** includes a

- Breach and Hold - an entryway is breached without announcement for observation of the interior of the property without immediate entry,
- Dynamic Entry - an entryway is breached and there is an immediate entry into the premises, or
- Dynamic Entry with Distraction Devices - same as Dynamic Entry but using distraction devices to attempt to ensure the property is safely secured without injury to the occupants or the officers; only Emergency Task Force (ETF) officers are authorized to use Distraction Devices.

We are dedicated to delivering police services, in partnership with our communities, to keep Toronto the best and safest place to be.

Learn more about our **Service Core Values** and **Competencies** [here](#)

