



PHILADELPHIA POLICE DEPARTMENT      DIRECTIVE 5.22

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**SUBJECT: ARREST WARRANTS**

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**1. POLICY**

A. When seeking application for an arrest warrant, police personnel will follow the provisions of the Rules of Criminal Procedure (Pa.R.Crim.P.119 to 124), which can be found in the Crimes Code of Pennsylvania.

1. No arrest warrant shall be issued but upon probable cause (defined below) supported by one or more affidavits sworn to before the issuing authority. The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavits. (Supplementing an arrest warrant orally at the time it is signed by a judge or bail commissioner is not acceptable.
2. At any hearing on a motion challenging an arrest, no evidence shall be admissible to establish probable cause for the arrest warrant other than the affidavits provided for in paragraph A.

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3. Additionally, probable cause to believe that the subject of the arrest warrant is present at the time the search is conducted is required. This requirement holds each and every time the warrant is served.

**Example:** A warrant is served for a second or subsequent time requires the existence of probable cause to believe the subject is present at the said location each time.

B. An Affidavit of Probable Cause for Arrest Warrant (75-572) along with the Continuation Report (75-51), if applicable, will be approved by the District Attorney's Charging Unit (DACU) prior to submission to the issuing authority (judge or bail commissioner).

C. Police personnel WILL NOT provide a copy of the arrest warrant to the defendant at any time.

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- D. Only sworn personnel will execute arrest warrants. [PLEAC 2.7.6]

E. Misstatements, Omissions and Exculpatory Information

1. Under the Fourth Amendment, when applying for a warrant, police officers may not intentionally include misstatements or false statements; or recklessly omit any material facts from the accompanying affidavit of probable cause. Because the Fourth Amendment prohibits this conduct, the Department also prohibits it. Misstatements in or material omissions from a warrants application will damage the criminal case and could subject the investigator and the City to a §1983 federal civil rights claim.
  2. Regarding omissions, investigators shall include in all warrant applications highly relevant facts within his or her knowledge that any reasonable officer knows that a magistrate would need to make an independent determination of probable cause. This included all culpable information as well as exculpable information. Exculpable information includes, but is not limited to:
    - a. any misidentification, inconsistency or failure to identify a suspect by a witness/victim,
    - b. difference in height, clothing or other specifics of the offender from originally reported flash information,
    - c. discrepancies in license tag or vehicle description information initially described by a victim/witness, .
    - d. information regarding any past actions/relationships between the suspect and the victim that could affect a probable cause determination.
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## 2. DEFINITIONS

- A. Probable Cause - The existence of facts and circumstances that would justify a person of reasonable caution to believe:
  - \* that an offense has been or is being committed;
  - \* that the particular person or item to be seized is reasonably connected to the crime;AND
  - \* that the person can be found at a particular place or the item can be found in the possession of a particular person or at a particular place.
- B. Due Diligence - Frequent and thorough attempts to apprehend a defendant named in an arrest warrant.
- \*2 C. Sworn Personnel - A law enforcement officer, of a law enforcement agency, who has the power and authority of the Federal Government, Commonwealth of Pennsylvania, the political subdivision or any other specified statutory entity to possess and exercise the powers of arrest or other law enforcement duties as specified by law or ordinance. [PLEAC]

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### 3. PURPOSE OF AN ARREST WARRANT

- A. The purpose of an arrest warrant procedure is to have a neutral and detached issuing authority determine whether probable cause exists for the arrest of the named defendant. The warrant serves to protect individuals from unreasonable seizures (arrests).

**NOTE:** THE AFFIDAVIT OF PROBABLE CAUSE FOR ARREST WARRANT (75-572) IS NOT THE ACTUAL WARRANT. THE WARRANT OF ARREST FORM (30-155), LOCATED IN THE PAB LOBBY ALONGSIDE THE ARREST WARRANT CONTROL LOG BOOK, IS THE FORMAL ARREST WARRANT. THIS IS THE FORM COMPLETED BY THE OFFICER OR INVESTIGATOR AND TAKEN TO THE LOCATION WHERE THE SUSPECT IS TO BE ARRESTED.

AN OFFICER LEGALLY POSSESSES A WARRANT OF ARREST ONLY WHEN THE 75-572, 30-155 AND THE D.A.C.U. COPY OF THE COMPLAINT (SENT VIA COMPUTER FROM THE DISTRICT ATTORNEY'S OFFICE TO THE ISSUING AUTHORITY) IS SWORN TO BY THE AFFIANT IN THE PRESENCE OF THE ISSUING AUTHORITY.

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### 4. PRIOR TO OBTAINING THE ARREST WARRANT

- A. Sworn personnel will ensure that a complete and timely investigation has taken place. The information concerning the suspect and their location, as well as any information noted on the 75-572 and 75-51 must be accurate, reliable and contemporary.
- B. Areas of investigation should include but are not limited to:
1. Motor vehicle checks
  2. Voter registration checks
  3. Welfare files
  4. School records
  5. Employment records
  6. Utility bills
  7. Interviews with family, friends, co-workers, etc.
  8. Informants
  9. Surveillance
  10. Jailtrak system
  11. Coles Directory
  12. Fiche File
  13. Intelligence check (associates, areas frequented)
  14. Criminal record check - photos, extracts

15. Driver's license
16. Firearms checks
17. Probation/Parole

These types of investigations will be completed prior to obtaining the arrest warrant and should aid in the apprehension of the suspect.

The areas of investigation that are utilized should be documented on the Investigation Report (75-49) and the Supplemental Investigation Report (75-52), and will become part of the investigator's case folder.

**NOTE:** These types of investigations should also be used to supplement an officer's efforts concerning "due diligence" requirements after the warrant has been obtained.

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## 5. PROCEDURE FOR OBTAINING AN ARREST WARRANT

A. To obtain an arrest warrant, sworn personnel MUST:

1. Have thoroughly investigated a complaint or gathered information as to convince a disinterested judge/bail commissioner that probable cause exists to justify issuing an arrest warrant.
2. Consult with the highest ranking supervisor available within the district/unit of assignment.
3. Prepare the 75-572 as outlined below paying particular attention to Sections 1 and 2 of the 75-572.
4. Enter District Control number in the upper right-hand corner of the 75-572.
5. Enter name, badge number and district/unit of the affiant (officer obtaining warrant) on the 75-572.

Section 1 of the 75-572

6. Enter required information concerning the offender and the specific charge(s). John Doe warrants should contain as much description of the suspect as possible.

Section 2 of the 75-572

7. Enter a summary of facts and circumstances sufficient to indicate that a criminal offense(s) was committed AND that they were committed by the defendant named in the warrant.

**NOTE:** When probable cause is based on an eyewitness account, indicate name and address of each eyewitness and their summary statement(s).

When probable cause is based on physical evidence, briefly describe the evidence and its connection to the offender.

If probable cause is based on the statement of an informant or other confidential source, follow the policy as outlined in Section 5 of Directive 5.7, "Search Warrants."

8. Use a continuation Report (75-51) when additional space is required to complete the probable cause, regardless of the amount of information and do so as follows:
  - a. Type in capital letters at the top of the section used for the narrative report, "CONTINUATION OF PROBABLE CAUSE FOR ARREST WARRANT # \_\_\_\_\_."
  - b. Ensure the warrant number on the 75-51 is identical to the warrant number of the 75-572. (See Step 12 to obtain warrant number.)
  - c. Complete necessary probable cause information.
  - d. Directly under the last sentence supporting probable cause on the 75-51, type the following exactly as shown:

\_\_\_\_\_  
Signature of Affiant Badge# Dist/Unit

Sworn to (or affirmed) and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

\_\_\_\_\_  
Signature of Issuing Authority (SEAL)

- e. The officer (affiant) shall affix their signature, badge number and district/unit on the line completed above.
  - f. Attach the 75-51 to the 75-572.
9. Fax the completed forms to the DACU for approval prior to submitting to the issuing authority.

**NOTE:** The Assistant District Attorney (ADA) will note their approval or disapproval and initial the forms. They will then be faxed back to the officer/investigator.

10. If disapproved, ensure a Record of Declination form is obtained and a copy is maintained as part of the case file.

**NOTE:** A Record of Declination form is not needed if the modifications by the ADA amount to only handwritten notes on the 75-572 or 75-51 for the purpose of strengthening the probable cause.

11. If approved, make the appropriate notation of approval on the original affidavit.
12. Proceed to the PAB lobby and complete the Arrest Warrant Control Log Book and the Warrant of Arrest Booklet (30-155). The number on the 30-155 is the warrant number.
13. Ensure that the number on the Warrant of Arrest (30-155) matches the number on the Log Book. Place this number in the upper right-hand corner of the 75-572 and 75-51.
14. Present the 75-572, including the faxed copy, the 75-51 (if used) and the 30-155 booklet to the issuing authority and swear to the facts outlined in each report.
15. Ensure that the issuing authority signs and seals these reports or a court may discharge the complaint.

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## **6. EXECUTION OF THE ARREST WARRANT**

- A. When an arrest warrant is obtained for any offense, the 180-day limit begins to run requiring a prompt trial (Rule 1100 Pa. R. Crim.P.)
  1. In order to be excluded from the 180-day limit, it is necessary that the officer/investigator establish "due diligence" in all attempts at apprehension as outlined in Section 3 of Directive 5.17, entitled "Wanted Persons."
  2. When the officer/investigator is proceeding under "due diligence" and a period of time has elapsed between the original attempt to apprehend and the time of the present attempt to apprehend that may render the original information on the subject or location no longer accurate, reliable, or contemporary, the investigative methods under Section 4-B will be repeated to obtain the most recent intelligence. In no case should warrant service be initiated without this investigative process if the elapsed time period is longer than 30 days.

The areas of investigation that are utilized to accomplish this update are to become part of the subject's "wanted person folder."

3. The search for a person cannot be in areas where a person could not be found and the search can only be for the person, not for other item (unless there is also a search warrant).
- B. Sworn personnel are expected to perform the arrest in a highly professional manner. Officers will not use abusive or derogatory language, threats, or unnecessary intimidation while serving the arrest warrant. Weapons should not be displayed unnecessarily after the safety of the officers has been assured and all suspects are secured.

Property should not be damaged, upset or destroyed unless the search cannot be conducted without such action. The unnecessary damage or destruction of personal property by police during the execution of the warrant is strictly prohibited and WILL result in disciplinary action.

- C. Without exception, a law enforcement officer executing an arrest warrant shall, before entry, give or make a reasonable effort to give notice of their identity, authority, and purpose to any occupant of the premises specified in the warrant.

**NOTE:** While the Courts recognize specific exceptions to the Knock and Announce rule, it shall be the policy of the Philadelphia Police Department to knock and announce prior to any warrant service. If an investigator believes that their safety is at risk by knocking and announcing the warrant, the warrant service shall be referred to the SWAT Unit.

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1. A Complaint or Incident Report (75-48) will be prepared for each warrant service. Use the same DC# assigned to the original incident.
  2. The 75-48 will include:
    - a. Warrant number and charges
    - b. Name of suspect
    - c. Method of entry (consent, use of force, etc.)
    - d. Result of warrant service
    - e. Damage to property (describe in detail)
    - f. Wrong location - when warrant has been served on "wrong location", state "warrant served on wrong location" and include both the correct and incorrect numerical location and the name of the owner or occupant of the incorrect location.
    - g. Damage to property or service of warrants at a "wrong location" must be reported to Police Radio immediately.

- h. Whenever an arrest warrant has been served on a "wrong location," the commanding officer of the district/unit that obtained the warrant will be notified. He/she will then notify the pertinent Chief Inspector and prepare a memorandum to the Police Commissioner, sent through the chain of command, describing the entire incident. The commanding officer of the district of occurrence shall be notified by the commanding officer of the district or unit that obtained the warrant when such incidents occur.

**NOTE:** A "wrong location" does not exist when all factors indicate correct warrant service at the premises described in the warrant was accomplished. (i.e., Simply because the warrant service produced negative results, does not indicate a "wrong location.")

B The United States Supreme Court and the Pennsylvania Supreme Court have ruled that, absent emergency conditions, the following warrant requirements **MUST** be met for arrests in private residences:

1. An arrest warrant is necessary before an individual may be arrested in their place of residence (e.g., home, apartment) regardless of the grade of the offense.
2. An arrest warrant **AND** a search warrant are required to enter any residence other than the defendant's in order to search for and arrest the defendant.
3. An arrest warrant **AND** search warrant are required to enter any residence, whether owned by the defendant or not, if the purposes of the police entry are to arrest the suspect **AND SEARCH FOR EVIDENCE**.

E. Warrantless arrests and searches are permitted where exigent circumstances exist. However, courts generally review the reasonableness of police actions based upon exigent circumstances on a case-by-case basis and these issues are closely scrutinized.

However, as a basic rule of procedure where time and circumstances permit, an arrest and/or search warrant must be obtained.

1. Some factors, which courts consider in determining whether exigent circumstances existed, are:
  - a. the threat of physical harm to police officers or others unless an arrest is made immediately
  - b. the seriousness of the offense
  - c. a reasonable belief suspect is armed
  - d. a strong reason to believe that the suspect is on the premises **AND** committed a crime

- e. the likelihood that the suspect will escape or is about to flee
  - f. during a "hot pursuit" of a suspect who flees into a building
  - g. the manner of entry (i.e. peaceable, use of force, trickery, etc.)
2. Officers will be required to document the fact that such exigent circumstances existed and may be required to articulate such details through court testimony.
  3. EXIGENT CIRCUMSTANCES DO NOT EXIST WHERE OFFICERS CREATE THEIR OWN EMERGENCY. (E.G., IF AN OFFICER PLACES HIMSELF/HERSELF IN A PLACE WHERE THEY ARE NOT LEGALLY PERMITTED TO BE AND THEY ARE FORCED TO TAKE POLICE ACTION, THE COURTS MAY NOT PROTECT THESE ACTIONS UNDER EXIGENT CIRCUMSTANCES.)
- F. The arrest warrant, unlike a search warrant, has no expiration date as long as due diligence requirements are met. Also, unlike a search warrant, an arrest warrant can be executed anywhere in the Commonwealth of Pennsylvania as long as it was obtained in the state.

**NOTE:** When an arrest warrant obtained in Philadelphia is served outside the City, but within the Commonwealth, the defendant must be taken to the proper issuing authority in the judicial district of arrest for the purpose of posting bail. (Pa.R.Crim.P.123)

- G. The SWAT Unit should be utilized only when service of the warrant is beyond the scope of the officer/investigator (circumstances indicating that specialized training, weaponry, and high skill level are needed).

THE CIRCUMSTANCES FOR REQUESTING THE ASSISTANCE OF THE SWAT UNIT SHOULD BE ARTICULATED TO THE SWAT UNIT SUPERVISOR BY A DISTRICT/UNIT SUPERVISOR. THE SWAT UNIT SUPERVISOR MAY DECLINE TO RESPOND TO THE LOCATION. SHOULD THE REQUEST BE DECLINED, NO FURTHER SERVICE OF THE WARRANT WILL BE UNDERTAKEN UNTIL A UNIT/DISTRICT OR C.I.B. COMMANDER IS NOTIFIED AND ASSESSES THE SITUATION.

1. The following are examples of some of the circumstances where utilization of the SWAT Unit should be considered:
  - a. The premises, which will be the object of the warrant service, will be heavily barricaded against entry, such as a clandestine drug lab.

- b. The suspect has a history of assaults with weapons or is a member of an organized criminal group.
- c. There is reason to believe that the suspect is armed and will use the weapon against law enforcement officers.

H. Whenever possible, uniform officers should accompany plainclothes officers/investigators to serve the warrant.

**7. DISTRIBUTION**

A. Distribution of the 75-572 and 75-51 shall be as follows:

- 1. White (original)..... Issuing Authority
- 2. Canary (first copy)..... Documents Control Unit
- 3. Pink (second copy)..... District/Unit
- 4. Goldenrod (third copy)..... District Attorney
- 5. Remaining copies..... District/Unit

**NOTE:** Commanding officers shall review, on a monthly basis, each Affidavit of Probable Cause of Arrest Warrant (75-572) to ensure legal and departmental guidelines have been carried out.

B. Distribution of the 75-48 shall be as follows:

- 1. White (original)..... Reports Control Unit
- 2. Yellow (first copy)..... Case File
- 3. Pink (second copy)..... District/Unit of Occurrence

**RELATED PROCEDURES:** Directive 5.7, Search Warrants  
 Directive 5.17, Wanted Persons

**BY COMMAND OF THE POLICE COMMISSIONER**

<u>FOOTNOTE</u>	<u>GENERAL #</u>	<u>DATE SENT</u>	<u>REMARKS</u>
*1	0852	10-21-96	Addition
*2	7694	03-25-13	Addition
*3	7447	09-01-20	Change