

DEKALB POLICE DEPARTMENT

Subject: **Complaints and Warrants**

Policy #: **404.1**

Effective Since: 8-21-03

Originally Issued As: General Orders # 7 of 9-1-

77 & # 29 of 6-18-81

Revision Effective: 1-1-19

FTO Training Tasks: # 18, 19, 20

Reference Material: ILCS

IELAP Standards Covered: ADM.02.02 (d); OPR.11.04-11.05

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**PURPOSE:** The purpose of this policy is to provide general guidance in the process of preparing a criminal complaint, obtaining an arrest warrant, and obtaining and executing a search warrant.

**POLICY:** It is the policy of the department to have its officers investigate cases completely in order to determine if and which criminal charges apply. Once probable cause is established to charge an offender, the proper complaint and/or warrant should be prepared and filed. Search warrants will be obtained and executed only as allowed by law.

**DEFINITIONS:**

**Complaint:** 725 ILCS 5/102-9: means a verified written statement other than an information or an indictment, presented to a court, which charges the commission of an offense.

**Warrant:** 725 ILCS 5/107-1: a warrant of arrest is a written order from a court directed to a peace officer, or to some other person specifically named, commanding him to arrest a person.

**PROCEDURE:**

- I. **Preparing a complaint** : when an officer has established probable cause to make a criminal arrest, the person arrested or to be arrested shall be charged on a complaint, being a state or city charge.
  - A. Pursuant to 725 ILCS 5/111-3, the complaint must be in writing and allege the commission of an offense, specifically:
    1. the name of the offense
    2. citing the statutory provision alleged to have been violated
    3. setting forth the nature and elements of the offense charged
    4. stating the date and county of the offense
    5. the name of the accused
  - B. The complaint should be signed by the victim/complainant; otherwise, the officer may sign on behalf of the victim/complainant.
  - C. The signature must be notarized by a licensed notary public for any state complaint or a city ordinance complaint that could be a state misdemeanor charge.
  - D. **Felony complaints** must be approved by a State's Attorney to ensure proper charges:
    1. The officer should advise the shift commander when seeking felony charges for authorization to contact a State's Attorney.
    2. The officer must contact the on-duty or on-call State's Attorney when seeking a felony complaint.
    3. The officer should have pertinent information ready for the State's Attorney:
      - Complete account of the incident
      - Names of those involved
      - Previous criminal history of the offender
      - Evidence, statements, and/or confessions pertinent to the case
      - The felony charge under consideration
    4. Reports sent to the State's Attorney's office for review for charges should also include the above information.
    5. Once the felony charge is approved, the officer must fill out the felony synopsis sheet and direct a copy to the State's Attorney's office. This is usually accomplished by sending a copy to the Sheriff's Office when the defendant is transported to the county jail.

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6. Felony arrest reports should be completed as soon as possible so it is available to the State's Attorney's office.
  - E. Upon arrest of the defendant, the officer should determine the bail amount as prescribed in the ILCS for the particular offense being charged. The department accepts cash bail and credit card payments for bail through a contracted service.
  - F. Upon complaint service, the complaint copies should be distributed as described on the bottom of the complaint.
  - G. If a complaint is unable to be served on the defendant in a timely manner (generally within 48 hours), it should be brought before a judge to issue an arrest warrant.
  - H. Completed, unserved complaints should be filed in the radio room complaint file, pending the defendant's arrest or awaiting such time to obtain a warrant. Where necessary, warrants should be obtained for completed, unserved complaints as soon as practically possible.
- II. **Preparing an arrest warrant** : when an officer has established probable cause to make an arrest and a complaint has been prepared, it can be brought before a judge to issue an arrest warrant.
  - A. Pursuant to 725 ILCS 5/107-9, the warrant must:
    1. Be in writing.
    2. Specify the name, sex, and birth date of the person to be arrested.
    3. Set forth the nature of the offense.
    4. State the date when issued and the municipality or county where issued.
    5. Be signed by the judge of the court.
    6. Command that the person against whom the complaint was made be arrested and brought before the court.
    7. Specify the amount of bail.
    8. Specify any geographical limitations.

NOTE: the officer may complete items 1-4 on the warrant form; items 5-8 are completed by the judge.
  - B. When attempting to obtain a warrant, the officer should first contact the State's Attorney to designate the time and location of obtaining the warrant. A state complaint needs to be filed with the Circuit Clerk upon issuance of the warrant.
- III. **Making a Warrant Arrest** :
  - A. When arresting someone on a warrant, the warrant shall be confirmed with the originating agency as to its validity and to ensure the arrest is made within any listed geographical limitations.
  - B. The bond amount should be determined from the originating agency and bail may be posted as required.
  - C. Officers are not authorized to issue an individual bond (I-bond) for warrants where bail has been established by a judge. Any modifications for bond in these cases must be approved by the State's Attorney of the originating county and the judge.
  - D. When bonding a person out on an original charge related to domestic violence, officers should include as a condition of bond the 72-hour no-contact rule with the victim. See Policy 402.4 for complete information regarding domestic violence procedures.

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- E. If it is determined an arrest warrant is no longer valid or is outside of geographical limitations, the person held in custody shall be released without delay unless there is a legal basis for arrest on other grounds.
  - F. A valid arrest warrant grants officers the authorization to enter the private residence of the person named on the warrant when there is probable cause to believe the person is present in the residence. Using force to enter the residence will be used only when there is the officer's personal knowledge or reliable informant's personal knowledge that the subject of the warrant is actually present.
  - G. A search warrant (or consent or other search warrant exception) is needed to enter the residence of someone other than the person named in the warrant.
- [ILEAP OPR.11.04]

IV. **Search Warrants.** These must be prepared and executed pursuant to 725 ILCS 5/108-3 through 5/108-14. Also see Policy 402.14, Search & Seizure Guidelines.

- A. If possible, always obtain a search warrant for searching and/or seizing the property of another because this provides for the detached scrutiny of a neutral judge. Courts have held that they express a strong preference for warrants, and in marginal cases in which warrants have not been obtained the court may not allow the evidence to be admitted.
- B. Officers should always confer with the State's Attorney's Office for legal assistance prior to seeking judicial review and approval of a warrant.
- C. The Office of the Illinois Attorney General has prepared a Search Warrant Manual.
- D. When a request for a search warrant is sought, the request and the information forming the basis for the warrant will normally be reviewed by the Shift Supervisor or the Investigations Supervisor.

V. **Obtaining a Search Warrant**

- A. The following steps will be followed when attempting to secure a search warrant. The first and necessary step is the affidavit must be filled out which describes the qualifications of the officer supplying the reason for the search. This information should include:
  - 1. Number of years as a police officer.
  - 2. Number of years investigating the type of crime under investigation.
  - 3. Specialized training that has been received.
  - 4. Any witnesses to the crime.
  - 5. Informants and their prior reliability.
  - 6. Anonymous but reliable tips and any corroborated evidence.
  - 7. Description of the place to be searched, to include:
    - a. Color and type of structure,
    - b. Street address, with specific unit number if multi-family,
    - c. City and County.
  - 8. If it is a motor vehicle, identification of the vehicle by year, make, model, color, VIN and license plate.
  - 9. If it is a person to be searched, include the following:
    - a. Name and/or nickname,
    - b. Sex and Race,
    - c. Date of Birth,

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- d. Other physical identifiers,
- e. Location of the person to be searched.
- B. Establish probable cause (i.e., the totality of the circumstances) that indicates evidence of the crime will be found. 725 ILCS 5/108-3
- C. List all probable criminal offenses that have been committed.
- D. Have the affidavit reviewed by the appropriate State's Attorney.
- E. Obtain judicial approval from the court having jurisdiction.

VI. **Preparing for the Execution of Search Warrants**

- A. A search warrant, once issued, must be executed within 96 hours of the time that it was issued.
  - 1. Any warrant not executed within such time shall be void and shall be returned to the court of the issuing judge as "not executed". 725 ILCS 5/108-6
  - 2. It is not necessary to physically have the warrant in hand to execute it. The officer obtaining the warrant may advise other officers by telephone or radio that the warrant has been signed and if necessary, may fax the signed warrant to the Police Department.
  - 4. During the execution of a search warrant, at least one uniformed officer will be present for the purposes of identification and for all other duties assigned by the Shift Supervisor.
- B. If it is necessary to utilize a canine unit, one will be requested in accordance with department policy.
- C. Plainclothes personnel either assisting in the execution of the warrant or doing the actual search will be equipped as follows:
  - 1. Clearly identifiable markings worn on the outer garments that identify them as law enforcement officers. This may be a "raid jacket" or similar type clothing, along with their badge.
  - 2. All personnel will wear approved body armor.
- D. The person coordinating the search will consider the following options:
  - 1. Special entry tools needed.
  - 2. Standby of medical personnel.
  - 3. Animal control and/or removal.
  - 4. The need for additional personnel, to include an Emergency Services Team and Evidence Technicians.
- E. Prior to executing the search warrant, the officer in charge or coordinator will determine what personnel will be needed for processing the scene, conducting the search of the premises, security of the residence and the occupants and the need for additional personnel.
- F. **Only sworn law enforcement officers will engage in the execution of the search warrant and any subsequent search. Warrants authorize entry, search, and seizure for law enforcement officers only, not any civilian personnel such as interns or volunteers . 725 ILCS 5/108-5**
- G. Prior to the execution of the warrant, the officer in charge or coordinating officer will hold a briefing for all members that will be involved in the execution of the search warrant, along with affected patrol personnel. At this time the following assignments will be made:
  - 1. Entry Team/Service Team: Officers who will be responsible for initial approach to the area to be searched and announcement of the warrant.
  - 2. Officers who will be responsible for a security sweep of the area to be searched and for control of person(s) at the location.

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3. Personnel responsible for collection of evidence at the scene and for processing the scene, to include photographs and videotape.
- H. A detailed list of assignments and what actions will be taken will be prepared but is NOT to be turned in with the case report.

**VII. Execution of the Search Warrant and Entry Procedures**

- A. The officer in charge will ensure:
  1. That a silent approach is made to the location.
  2. The place to be searched is the same as that listed in the warrant.
  3. That all members involved are in their assigned positions prior to attempted entry.
- B. Entry Procedures:
  1. The entry officer designated at the briefing, after being advised that all personnel are in place, will approach the door of the place to be searched. This officer will then knock on the door and loudly announce that he/she is a police officer possessing a search warrant and will demand entry. The officers must wait for a response, but only have to wait the length of time that could reasonably elapse for someone to begin to destroy evidence.
  2. At this time, if necessary, force will be used to enter the premises, but only that force which is necessary to gain entry. 725 ILCS 5/108-8(a)
  3. Unless otherwise dictated by unusual circumstances, only one entry point will be utilized.
  4. After entry is made by assigned personnel and the place is secured or deemed secure, identification of non-police personnel should be conducted.
  5. A copy of the search warrant will be left with the person who resides at the place searched. If there is no one at the location at the time the search warrant is executed, a copy of the warrant will be posted in a prominent place so that the property owner will know what occurred. **Do not leave a copy of the affidavit for the search warrant.** 725 ILCS 5/108-6
  6. Prior to leaving, an inventory of seized articles should be left at the place that is searched.
  7. Upon completion of the search, the premises will be secured. If it cannot be secured due to the damage caused by the entry, arrangements will be made by the officer in charge of the search to place officer(s) at the premises until such time as it can be secured.
- C. **Police may detain any and all occupants while searching the named location** .
  1. Police can detain and search the individual(s) named in the warrant.
  2. Police can reasonably detain any other person present and search them to protect from attack and prevent the disposal or concealment of any evidence described in the warrant. Any other searches of persons present must be made with independent probable cause or a warrantless search exception. 725 ILCS 5/108-9
  3. The scope of the search **must** be limited to the instruments, articles, things, or persons named and detailed in the warrant. 725 ILCS 5/108-7
  4. Those items that are in plain view and of an incriminating nature may be seized in accordance with the "Plain View Doctrine".

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5. Officers may seize items that are not named in the warrant when the items are of evidentiary value and it is impractical to sort through the evidence on the premises.
6. Searches that are conducted for narcotics justify entry into any container where narcotics may easily be concealed and may reasonably be found.
7. Vehicles that are found in attached garages may be searched if owned or controlled by the owner of the premises that is being searched.

**VIII. "No-Knock" Search Warrants**

- A. "No-Knock" search warrants are possible when the officer reasonably believes that if notice were given, a weapon would be used against the officer or another person, or there is an imminent danger that evidence would be destroyed. 725 ILCS 5/108-8(b)
- B. The following are examples of some of the circumstances that may be presented in the affidavit as well as the warrant itself which allow for entry without knocking and announcing a search warrant:
  1. The presence of firearms or explosives in the area to be searched and which would be readily accessible to any occupant.
  2. The prior possession of firearms by an occupant of the building within a reasonable period of time.
  3. The presence of surveillance equipment, including
    - a. Video Cameras.
    - b. Alarm Systems.
    - c. Other electronic warning devices.
    - d. The presence of items designed to impede entry, including, but not limited to:
      1. Steel bars/doors/gates.
      2. Dogs.
      3. Barricades.
      4. Blockades.
  4. If a judge finds that the aforementioned circumstances exist, the judge may issue a "No-Knock" entry.
  5. Even without a no-knock search warrant, if emergency exigent circumstances present themselves to the officers upon arrival or approach, officers may enter as needed without waiting to knock and announce.

**IX. Search Warrant Returns**

- A. It will be the responsibility of the officer obtaining the search warrant to prepare and return the search warrant to the issuing judge, without unnecessary delay.
- B. A complete inventory of all items seized will accompany the return. See 725 ILCS 5/108-10.  
[ILEAP ADM.02.02(d)]

- X. **Warrant Service Records and Criminal Process Paperwork:** The following documentation of warrant service or criminal process paperwork shall be recorded:
- a. The date received.
  - b. A tracking method, preferably by CAD entry. If CAD entry is not an option, notations of attempted and completed service delivery shall be made in writing on a document cover sheet.

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- c. The nature of the document.
- d. The source of the document.
- e. Name of the plaintiff/complainant and the name of the defendant/respondent.
- f. The name and badge number of the officer serving the documents.
- g. The method of service.
- h. The date(s) and time(s) of attempted service.
- i. The date and time of completed service.
- j. Location(s) of attempted or completed service.
- k. When completing service, verify the person named on the document is in the fact the person being served by using unique identifiers such as name, date of birth, social security number, etc.
- l. If service is permitted to another person other than the one named in the document, record the identity of the person actually served.
- m. Served documents shall be returned to the source, typically the Sheriff's or State's Attorneys office of the county having jurisdiction.
- n. Some documents have an expiration date of service. Any unserved documents should be returned to the source upon expiration of valid service dates. An explanation of nonservice should be provided.

[ILEAP OPR.11.05]

**Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police.**

NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.