

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)


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,



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.*


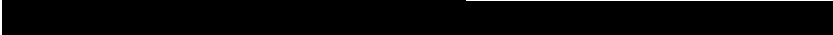
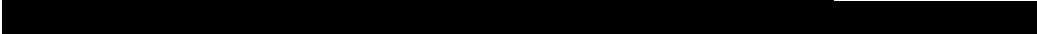
Supervisory Officer in Charge of Search Warrant Entry

- ➔ *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

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

Supplementary Information

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](#)

