

DALTON POLICE DEPARTMENT

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| <i>Subject</i> Search and Raid Procedures | | |
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I. Policy

It is the policy of the Dalton Police Department to execute search and arrest warrants in the safest manner possible in order to protect the lives, property, and rights of all persons and to follow all state and federal laws while conducting warrantless searches.

II. Definitions

- A. *Body Cavity Search* – A search that involves probing of the mouth, anus, and / or genitals of an individual for weapons, contraband, or concealed evidence.
- B. *Investigatory Stop* – The brief detainment of an individual, whether on foot or in a vehicle, based on an Officer’s reasonable suspicion that the individual is committing, has committed, or is about to commit a crime.
- C. *Pat-Down* – A limited search for concealed weapons, generally performed by touching the outer clothing, without squeezing or manipulation, but also of those areas which may be within an individual’s control, conducted when an Officer has reasonable suspicion that an individual is armed and presents a danger to the Officer or others. Also known by the term “frisk.”
- D. *Reasonable Suspicion* – Facts and circumstances, based upon observations or information, short of probable cause but based upon articulated facts, that would lead a reasonable law enforcement officer to believe that criminal activity is afoot or that a person who is lawfully stopped is in possession of a weapon.
- E. *Search* – An examination of an individual’s house, premises, property, or person for the purpose of discovering evidence or proof of criminal activity.
- F. *Strip Search* – The removal or rearrangement of clothing, in an attempt to locate weapons, contraband, or concealed evidence, that results in the exposure or observation of a portion of an individual’s body where he / she has a reasonable expectation of privacy.

III. Searches of Persons

A. Pat-downs

1. An Officer may conduct a pat-down of an individual by performing a touching of the outer garments for weapons if and when:
 - a. The individual has been legitimately stopped based upon reasonable suspicion; and
 - b. The Officer has reason to believe that the individual possesses weapons and poses a threat to the safety of the Officer or the safety of another nearby person.
2. Not every investigatory stop poses sufficient justification for conducting a pat-down of an individual, but the following factors should be considered when determining if a pat-down is appropriate:
 - a. The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved
 - b. Prior knowledge of the suspect's use of force and / or propensity to carry deadly weapons
 - c. Movements and demeanor of the suspect
 - d. Visual indications that suggest the suspect is carrying a firearm or other deadly weapon.
3. Whenever possible, a pat-down should be performed by an Officer of the same gender as the suspect.
4. Pat-downs should be performed with caution, restraint, and sensitivity. These intrusions shall only be performed to protect the safety of Officers and others and shall never be used as a pretext for intimidating individuals or groups of individuals, to obtain evidence, or for any other purpose.
5. Pat-downs shall be conducted in the following manner:
 - a. Pat-downs should be conducted by at least two (2) Officers, one who performs the check while the other provides protective cover.
 - b. Pat-downs shall be performed in a manner that minimizes the suspect's ability to harm the Officer or to escape.
 - c. Officers are only permitted to feel the outer clothing of the suspect. Officers shall not place their hands in pockets or under the outer layer of clothing unless they feel an object that could reasonably be a weapon or they feel an object that is immediately apparent, without additional probing or investigation, to be contraband.
 - d. If the suspect is carrying an object, such as a handbag, suitcase, briefcase, sack, backpack, or other item that may conceal a

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weapon, the Officer should place it out of the suspect's reach **during the pat-down**.

- e. If the external touching of the suspect's clothing fails to disclose evidence of a weapon, no further search shall be made. If evidence of a weapon is developed, an Officer may retrieve that item only. If the item is confirmed to be a weapon, the possession of which is a crime, the Officer may make an arrest of the suspect and complete a full-custody search of the suspect.
- f. If reasonably necessary, a more intrusive search may be performed on the individual. In such cases, the body is checked systematically through the clothing in search of weapons, contraband, and concealed evidence. These searches shall be performed by an Officer of the same gender, when available.
- g. In a situation where a **search pat-down** is conducted on a suspect of the opposite gender, Officers shall use the back of the hand to complete the **search pat-down**.

B. Strip searches

- 1. Strip searches of detainees, with or without a warrant, shall only be conducted in the rarest of circumstances, when the life of the Officer or others may be at serious risk, and only with the explicit approval of a Supervisor.
- 2. These searches shall be conducted:
 - a. Under conditions that provide privacy from all persons except those authorized to conduct the search.
 - b. By the least number of personnel necessary to maintain privacy and only by those of the same gender as the suspect.
- 3. If the suspect is a juvenile, the Officer shall obtain documented consent from a parent or legal guardian who is present where the strip search is to be performed.
- 4. The Officer conducting the strip search shall complete a report detailing the facts and circumstances of the search.

C. Body cavity searches

- 1. Searches of an individual's blood stream, body cavities, and subcutaneous tissues shall only be conducted by an authorized physician, licensed nurse, or medical personnel specifically trained for this task.
- 2. Should an Officer reasonably believe that a suspect is concealing a weapon, contraband, or evidence within a body cavity, the following procedures shall be utilized:

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- a. The Officer shall consult with his / her immediate Supervisor to determine whether probable cause exists to seek a search warrant for a body cavity search. The decision to seek a search warrant is reasonable only where the suspected offense is of a serious nature and / or the concealment of the item(s) poses a threat to the safety of the Officer, the suspect, or others.
 - b. If probable cause exists for a body cavity search, an affidavit for a search warrant shall be prepared that clearly defines the nature of the alleged offense and the basis for probable cause. The Officer shall also prepare a report detailing the facts and circumstances of the search.
 - c. A body cavity search shall be performed only by an authorized physician, licensed nurse, or medical personnel specifically trained to perform these tasks.
 - d. For safety and security reasons, the search shall be conducted in a room designated for this purpose at a detention facility, medical clinic, or hospital.
 - e. Body cavity searches shall be performed with due recognition of privacy and hygienic concerns.
 - f. If the suspect is a juvenile, in addition to the search warrant requirement, the Officer shall notify a parent or legal guardian of the body cavity search to be performed.
3. An Officer may retrieve evidence or contraband from an individual's mouth without medical personnel in attendance if the Officer believes it is being concealed or is in danger of being swallowed or destroyed.
 4. Any such search of the mouth, conducted incident to arrest, may be made without a search warrant only:
 - a. If there is a strong probability that items will be seized which relate to the offense for which the individual was arrested;
 - b. If delay in securing a search warrant would probably result in the disappearance or destruction of the objects of the search; and
 - c. If it appears that the search is reasonable under the circumstances of the case, including the seriousness of the offense and the nature of the invasion of the individual's person.
 5. Once the prerequisites have been satisfied, an Officer may use objectively reasonable force to extract evidence or contraband from the arrestee's mouth. In determining whether the use of force is objectively reasonable, the Officer shall consider the totality of the circumstances.

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6. The Officer shall prepare a report detailing the facts and circumstances of the search, and a Supervisory Review of the **Use of Force Response to Resistance and / or Aggression** shall be completed.

IV. **Obtaining a Search Warrant**

- A. A search warrant may only be issued upon probable cause. Probable cause may be developed through several sources, such as:

1. An Officer's personal observation and / or an independent investigation of information received from other sources
2. Information from concerned **citizens individuals**
3. Information from other Officers
4. Information from reliable informants
5. Personally verified information from tipsters

- B. Applying For a Search Warrant

1. Only an Officer charged with the duty of enforcing the criminal laws of the state or a currently certified peace officer engaged in the course of his / her official duty, where the Officer is employed by a law enforcement unit specified in O.C.G.A. 17-5-20, may be issued a search warrant.
2. Since an Officer has a right to use necessary and reasonable force **to serve a search warrant**, it is also a responsibility of an Officer to obtain the correct address and location of property or premises to be searched. Searching the wrong person or premises could lead to prosecution and / or civil liability of the Officer(s).

- C. Issuance of a Warrant

A judicial officer, described in O.C.G.A. 17-5-21, may issue a search warrant upon receiving a written complaint, which states facts sufficient to show probable cause that a crime is being committed or has been committed and which particularly describes the place or person, or both, to be searched and things to be seized.

- D. Command Review of Affidavit and Warrant

A Supervisor shall review the warrant affidavit for probable cause, any errors, and compliance with Title 17, Chapter 5 of the Official Code of Georgia Annotated, Searches and Warrants, prior to it being presented to a judge.

- E. No-Knock Provisions

1. To gain entrance to any building or dwelling without giving notice, a search warrant must contain a no-knock provision. This provision shall be located in the body of the warrant affidavit.

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2. An Officer may request a no-knock provision if there is compelling reasonable belief that the safety of the Officers executing the warrant is in jeopardy or the evidence to be seized is in danger of being destroyed. **No-knock provisions are generally disfavored and should only be requested when they are critical to a successful raid or will actually increase officer safety, not just when the minimum requirements are met.**
3. A no-knock provision cannot be based upon mere suspicion, but rather must be founded upon probable cause from an investigation or an informant.
4. Any Officer applying for a no-knock provision for a search warrant shall receive authorization from the Chief of Police or his / her designee prior to presenting the warrant affidavit to a judge.

V. **Warrant Execution Raid Operational Procedures**

- A. The Watch Commander or **other** Supervisor overseeing a raid shall act as the commanding Officer of the operation. The Supervisor shall be responsible for assigning personnel to specific tasks during the operation. The Supervisor shall also be responsible for ensuring that the warrant or raid is executed in the safest manner possible, including using the utmost diligence in verifying the exact physical location(s) of the raid operation, to protect the Officers involved and the public.
- B. Operations Plan
 1. Prior to any warrant execution raid, the case Officer or lead Investigator shall be responsible for the gathering of intelligence to be used to formulate a tactical operations plan.
 2. Any Officer utilizing surveillance devices, cameras, and / or listening or recording devices to gather intelligence shall be properly trained in the use of the devices to safeguard against violations of individuals' rights and to **protect ensure** the proper operation of the equipment. The use of any investigative equipment shall be governed by this policy and shall meet all local, state, and federal guidelines and constitutional boundaries.
 3. Intelligence that shall be attempted to be gathered includes:
 - a. Photographs of the building or premises, including any vehicles that may be located there
 - b. Photographs, criminal histories, and any other relevant information on suspects expected to be encountered at the location
 - c. The presence of weapons and the suspects' propensity for violence
 - d. The presence of children, vulnerable adults, and / or aggressive animals

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- e. A detailed assessment of the location, including all entry points, exit points, and approach routes
 - f. A general layout of the interior of the building or premises
 - g. Any other detail that may present a safety issue for Officers or a danger to the public
4. The case Officer or lead Investigator is responsible for using all gathered intelligence to formulate a tactical operations plan.
 5. Prior to conducting a warrant execution raid, all Officers assigned to the operation shall meet and be briefed on the tactical operations plan.
 6. During the operation briefing, the Supervisor shall be responsible for the following:
 - a. Ensuring all relevant intelligence is conveyed to all participating members.
 - b. Ensuring that specific weapons needs are met and that all personnel involved wear protective body armor.
 - c. Ensuring all personnel understand their assignments, which may include the entry team, perimeter security, search members, or evidence collection duties.
 - d. Reviewing contingency plans in case of the need to respond to resistance, injuries to Officers, suspects, or bystanders, malfunctioning equipment, or loss of communications.
 - e. Ensuring event deconfliction procedures have been completed, when required

C. Execution of Warrant

1. Prior to responding to the location of the warrant execution raid, the Supervisor shall send a team member to do an assessment ride-by of the location to provide feedback on any changes.
2. The raid team may then proceed to the location in a safe and orderly manner, and upon the order of the Supervisor, the team shall execute the entry.
3. All necessary and reasonable force may be used to effect an entry to execute the warrant after a verbal notice of authority and purpose has been made, unless a no-knock provision has been approved by the Chief of Police or his / her designee and granted by a judge.
4. During entry, the first responsibility of the entry team is to make the scene safe. This is done by securing all persons and weapons.

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5. After the scene is made safe by the entry team, the search and evidence collection personnel may begin processing the scene.

D. Search of the Location

1. The search of the location shall be conducted in accordance with policy GO89-7.1, Crime Scenes.
2. All persons present at the location of the warrant service may be detained in a reasonable manner for a reasonable amount of time in order to ensure safety and prevent the destruction of evidence.
3. The collection of evidence and photographing of the scene shall be conducted after a preliminary search for evidence.
4. The seizure of property shall be performed by sworn personnel in accordance with O.C.G.A. 16-13-49.

E. Post-Raid Procedures

1. The Supervisor shall speak with all participants of the warrant execution raid to evaluate the effectiveness of the raid, to identify any problems that can be corrected in the future, and to assess any damage to private property or Department-issued equipment.
2. If property damage has occurred, the Supervisor shall report in writing such damage to the appropriate Division Commander for review, along with an approximate cost for repair.
3. For cases involving a search warrant or other criminal process, the case file shall include the following information:
 - a. Date and time received
 - b. Nature of document
 - c. Source of document
 - d. Name of defendant
 - e. Officer assigned for service
 - f. Date assigned for service
 - g. Date process expires, if any

F. Secure Locations

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Warrant execution raids are not conducted at locations currently being secured by law enforcement personnel. In those situations, tactical operations plans are not required.

G. Training

Training on planning and conducting raid operations shall be provided at least annually to appropriate personnel.

VI. **Warrantless Searches**

A. A search without a warrant, in order to be legally valid, must fall into one of the narrowly drawn exceptions to the warrant requirement. The burden of proof that a warrantless search meets the exceptions lies with the State and therefore the Officer.

B. Officers should consider obtaining search warrants when time and circumstances permit. Search warrants are not required if Officers are:

1. Securing weapons or evidence incident to arrest
2. Assisting individuals in life-threatening situations
3. Protecting the public from harm
4. Searching for additional victims at crime scenes
5. Protecting vital evidence
6. Actively pursuing a suspect
7. Searching vehicles or other moveable objects, based on probable cause that contraband might be moved or destroyed
8. Searching with voluntary **written** consent, **either in writing (Appendix A) or recorded with audio / video equipment**. In these cases, all searches should stop immediately if consent is withdrawn **(see Appendix A)**.

C. Procedures

1. Officers searching without a warrant shall include in the incident report the reasons (probable cause or other) that led to that decision. **and complete the Consent Search Warning waiver (see Appendix A)**.
2. Officers conducting consent searches **should shall** make every effort to ensure the person giving consent has the legal standing to do so. Also, **prior to any consent search being made**, Officers shall request **written consent prior to any search being made** and shall record it **either with the use of audio / video equipment or through writing (Appendix A)**.

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This policy supersedes any previous policies issued.

BY ORDER OF

CHIEF OF POLICE

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APPENDIX A

CONSENT SEARCH WARNING

I would like your permission to search your* _____
but I hereby advise you that:

1. You have the right to refuse to allow me to search your * _____
2. Any evidence of criminal conduct that I find will be used against you in a court of law.

WAIVER

1. Do you understand each of these rights I have explained to you?
2. Understanding these rights, are you willing to allow me to search your
* _____ ?

Time: _____ Signature _____

Date: _____ Officer Advising Rights _____

*(insert car, house, person, etc., as applicable)

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