




SEARCH WARRANTS/CONSENT SEARCHES

Date:
October 18, 2021

By Direction Of:


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A. Purpose & Scope.

To establish policy and procedures for sworn law enforcement staff of the Office of State Inspector General (OSIG) to request and use search warrants or conduct consent searches during the course of an official OSIG investigation. This policy applies to all OSIG sworn law enforcement staff. Failure to abide by this policy may result in disciplinary action up to and including termination.

B. Definitions.

Search Warrant – A judge’s written order, based on probable cause, authorizing a law enforcement officer to conduct a search of a specified person, place, or thing and to seize evidence.

Consent Search – A search conducted after a person, with the authority to do so, voluntarily waives Fourth Amendment Rights. The government has the burden to show that the consent was given freely and not under duress.

C. Policy.

Under the limited law enforcement powers granted to the OSIG in Act 29 of 2017, the OSIG has the ability to execute search warrants and conduct consent searches during the course of its investigations.

OSIG staff must follow all procedures listed below when requesting and using search warrants or conducting a consent search during an investigation.

D. Procedures.

Search Warrants

OSIG staff must be legally present to seize evidence from an area. If they are not legally present in the area, as outlined in the search warrant, evidence cannot be seized and used as part of the investigation.

OSIG sworn law enforcement staff shall not execute a search warrant without the presence of uniformed law enforcement officers with appropriate jurisdiction. OSIG sworn law enforcement staff will only seize items relevant to their investigation (currency, Electronic Benefits Transfer cards, etc.). Any additional contraband (guns, drugs, drug paraphernalia, etc.) found during the execution of the search warrant will be seized by the assisting law enforcement agency.

a. OSIG Approval Process

OSIG sworn law enforcement staff will complete the “Application for Search Warrant and Authorization,” and submit it through their chain of command for review and approval. If circumstances do not allow for the normal review process, OSIG sworn law enforcement staff will contact their chain of command in any manner possible to obtain approval of the request. Final agency approval for all search warrants will be made by the State Inspector General or his/her designee.

b. Judicial Approval Process

After securing OSIG approval, OSIG sworn law enforcement staff will follow the search warrant approval process as required under the Pennsylvania Rules of Criminal Procedure. Unless otherwise instructed by the District Attorney and/or Magisterial District Justice (MDJ) or other relevant local issuing authority, OSIG sworn law enforcement staff must complete three original copies of the search warrant application. All three original copies will be taken to the MDJ or other relevant local issuing authority, and if necessary, the District Attorney, for review and approval. Once signed by the MDJ or other relevant local issuing authority, one original copy is retained by the MDJ or other relevant local issuing authority, one copy is retained by OSIG in the case file, and one copy is presented to the individual being served.

OSIG sworn law enforcement staff should be aware that once filed and approved by a MDJ or other relevant local issuing authority, a search warrant is considered a public document unless OSIG has requested the search warrant be sealed. This must be taken into consideration when filing a search warrant with the MDJ or other relevant local issuing authority. All request to have a search warrant sealed must be approved by the State Inspector General and OSIG Legal. If needed, OSIG sworn law enforcement staff can request a 48-hour hold by the local issuing authority on the release of the search warrant for public view, which will keep it from immediately becoming public record.

c. Execution of Search Warrant

Prior to executing a search warrant, OSIG sworn law enforcement staff must notify the law enforcement agency with jurisdiction and ask for a uniformed officer to assist with the initial execution of the search warrant. A briefing with all team members will be conducted prior to executing the search warrant. Operational instructions, including entering the premises, will be given at the briefing (See the [OSIG Search Warrant Checklist](#)).

When executing the search warrant, staff must document all seized items, including items seized by another law enforcement agency, on the “Receipt/Inventory of Seized Property.” OSIG sworn law enforcement staff must make two copies of this document. The original Receipt/Inventory of Seized Property form must be returned to the MDJ/relevant local issuing authority. The original must be provided to the MDJ/relevant local issuing authority even if nothing was seized during the search. One copy is maintained by OSIG and the other copy is provided to the individual who was served.

OSIG sworn law enforcement staff must complete the Evidence Chain of Custody form ([OSIG 3](#)) for all evidence seized and maintained by OSIG sworn law enforcement staff. This form will be used to document the continuous control of the evidence during the course of the investigation and any subsequent legal proceedings. See the OSIG’s Evidence and Chain of Custody Policy for additional information.

OSIG sworn law enforcement staff must also complete the “Return of Service and Inventory,” and provide the original form to the issuing MDJ/relevant local issuing authority as soon as possible (the time frame can be discussed with the MDJ/relevant local issuing authority at the time the warrant is signed/authorized by the MDJ/relevant local issuing authority). One copy of the Return of Service and Inventory form is maintained by OSIG in the case file.

All aspects of the search warrant to include the MDJ/local issuing authority authorization, the execution, evidence/items seized, and the return of service must be documented on official OSIG investigative reports. All evidence seized during the execution of the search warrant must be stored in a secured OSIG evidence room/locker. OSIG sworn law enforcement staff must use the Evidence Chain of Custody Tracking Form ([OSIG 3b](#)) to check out evidence from the OSIG evidence locker(s).

Consent Searches

Prior to requesting a search warrant, OSIG sworn law enforcement staff may also request consent from the subject¹. If the subject gives consent to a search without a search warrant, the Consent to Search Form ([OSIG 413](#)) must be completed showing consent was given. Once

¹ Other parties may provide consent for a search and OSIG sworn law enforcement staff may contact their chain of command if the subject is not present to give consent.

completed and signed by the subject, a copy of the [OSIG 413](#) must be given to them while the original is maintained as part of the OSIG's investigative file.

If a consent search is challenged, the burden is on the OSIG to show that consent was properly given. The person giving the consent to search must have the apparent authority to give consent for the areas being searched and may limit the areas which may be searched. A consent to search can be revoked by an individual at any time and OSIG staff must stop their search at that time. However, any evidence seized prior to the revocation of consent should be retained. All evidence seized during a consent search will be documented in the same manner as evidence seized during the execution of a court ordered search warrant. Thus, all evidence seized during a consent search should be documented on the [OSIG 3](#). A copy of the [OSIG 3](#) must be left at the location of the search. The OSIG Evidence Room Log ([OSIG 4](#)) will be used to document the evidence being secured in the evidence room/locker. The entire process should be outlined in an official OSIG investigative report.

E. Additional Information.

Any questions concerning this policy should be directed to your supervisor and your local District Attorney.
