

405 ~~Fugitive and Search~~ Warrants

405.1 PURPOSE AND SCOPE

The purpose of this order is to establish the guidelines for filing arrest and search warrants.

405.2 ARREST WARRANTS

This section outlines the guidelines for employees to follow when obtaining an arrest warrant and the proper internal handling procedures to ensure the warrant is properly entered into Local, TCIC, and/or NCIC.

- (a) Employees will complete the investigation of an alleged offense before obtaining an arrest warrant.
 1. Exigent circumstances that supersede the completion of the investigation will be discussed with the Unit supervisor and with the appropriate County or District Attorney's office of the county where the offense occurred.
- (b) The City of Austin overlaps into multiple counties. Depending on the county in which the offense occurred, personnel will prepare either a complaint or a probable cause affidavit for presentation to the appropriate Magistrate in the county where the offense occurred.
 1. All felony affidavits/complaints will be reviewed by a supervisor prior to presentation to a Magistrate.
 2. Affidavits/complaints for any case of a complex nature (as determined by the Unit supervisor) will be presented to an Assistant County/District Attorney from the county where charges are to be filed, if available, for review and advice on the proper wording or text of the affidavit/complaint prior to the Magistrate's review.
 3. The affidavit/complaint along with the subject's criminal history, if any, will be presented to the proper Magistrate for signature. Further documentation of facts to be considered when setting bond may be presented with the affidavit/ complaint and criminal history.

405.2.1 ARREST WARRANT "PICKUP" SUPPLEMENT

Any employee wishing to obtain an arrest warrant for a person will first complete a "PICKUP" supplement in Versadex using the "PICKUP" supplement template.

- (a) Completely fill out the "PICKUP" supplement to include the following information:
 1. Name, date of birth, race, and sex of the wanted person.
 2. Any known aliases.
 3. Identification numbers (e.g., Texas DL/ID, SSN, DPS SID, FBI, APD).
 4. Any other state identifiers (e.g., handgun/firearm permit).
 5. Residence address(es). Clearly notate in this field if a subject is currently in custody at any detention facility and advise the Central Records/Warrant Unit staff when dropping the warrant off.
 6. Employer(s).
 7. Vehicle(s) information (e.g., license plate number, make, color, style, year model)
 8. Any other vehicle identifiers (e.g., collision information, bumper stickers).
 9. Charge being filed.
 10. Clearly state if the person is violent, has a history of resisting arrest, any history of previous weapons charges or is licensed to carry a firearm.
 11. Name and phone number of the District Attorney contacted for NCIC extradition purposes.
- (b) After the warrant has been signed by a Magistrate, the employee will update the "PICKUP" supplement with the warrant number, bond amount, and issuing Magistrate.

405.2.2 OBTAINING AN ARREST WARRANT

- ~~(a) Depending on the County in which the offense occurred, employees will prepare the following documentation:~~

- ~~1. Travis County – Prepare a probable cause affidavit, a Travis County warrant, and a Municipal Court cover sheet.~~
- ~~2. Williamson County – Prepare a complaint, probable cause affidavit and a Williamson County warrant.~~
- ~~3. Hays County – Prepare a complaint, probable cause affidavit and a Hays County warrant.~~
- ~~(b) Employees will present the typed affidavit/complaint and warrant to a Magistrate for signatures in the County where the offense occurred.~~
 - ~~1. A separate affidavit/complaint and warrant are required for each offense or victim.~~
 - ~~2. The affidavit/complaint should identify the affiant, the name of the victim and suspect, the type of offense, and the elements that constitute a violation of law.~~
 - ~~3. The contents of the affidavit/complaint must indicate that the suspect committed the crime.~~
 - ~~4. Employees will not file any charge or complaint alleging any type of law violation in any court within Travis County except for Municipal Court without authorization from their supervisor.~~
 - ~~5. In Williamson County, the affidavit, complaint and warrant can be presented to any Justice of the Peace and all County or District Judges currently holding office in Williamson County. Warrants, affidavits and complaints signed by a court other than a Justice of the Peace must be presented to a JP office to obtain a Cause #.~~
- ~~(c) Magistrate signed warrants and affidavits/complaints will be taken to the appropriate clerk's office and a cause number will be obtained for both.~~
 - ~~1. Travis County – Municipal Court charges office.~~
 - ~~2. Williamson County – Williamson County Justice of Peace Courts have clerk services available.~~
 - ~~3. Hays County – Hays County clerk's office.~~
- ~~(d) Employees will:~~
 - ~~1. Make copies of the signed affidavits/complaints to be kept with the original warrant packet and submit the original affidavits/complaints to the appropriate clerk for retention.~~
 - ~~2. If in Williamson County, deliver the original warrant to the Williamson County Sheriff's office located at 508 South Rock St. Georgetown, TX.~~
 - ~~3. Scan and file the warrant packet as outlined below.~~

Employees will present the typed affidavit/complaint and warrant to a Magistrate for signatures in the County where the offense occurred. Employees will prepare the following documentation:

(a) Travis County:

1. Prepare a probable cause affidavit, a Travis County warrant, and a Municipal Court cover sheet.
2. A separate affidavit/complaint and warrant are required for each offense or victim.
3. The affidavit/complaint should identify the affiant, the name of the victim and suspect, the type of offense, and the elements that constitute a violation of law.
4. The contents of the affidavit/complaint must indicate that the suspect committed the crime.
5. Employees will not file any charge or complaint alleging any type of law violation in any court within Travis County except for Municipal Court without authorization from their supervisor.
6. Magistrate signed warrants and affidavits/complaints will be taken to the Municipal Court charging office and a cause number will be obtained for both.
7. Employees will make copies of the signed affidavits/complaints to be kept with the original warrant packet and submit the original affidavits/complaints to the appropriate clerk for retention.
8. Employees will scan and file the warrant packet.

(b) Williamson County:

1. Misdemeanors – Prepare a complaint, probable cause affidavit, and a Williamson County warrant. The affidavit, complaint and warrant can be presented to any Justice of the Peace and all County or District Judges currently holding office in Williamson County. Warrants, affidavits and complaints signed by a court other than a Justice of the Peace must be presented to a JP office to obtain a Cause Number.
2. Felonies – Excluding "On-View" or "Instant" arrests, all felony arrest warrants must be staffed and approved by the Williamson County District Attorney Intake Division prior to

signature by a Magistrate. Warrant affidavits shall include a sentence identifying the prosecutor approving the warrant.

- (a) While it is unlikely that a detective's complete investigative report and copies of all digital evidence be available for final review by the Williamson County DA's office at the time of arrest warrant presentation, detectives should make all efforts to provide this information in a timely manner.
- (b) Intake staff will provide detectives with an Odyssey DA Control Number on the final approval of arrest warrants and receipt of the investigation reports and documents.
- (c) Intake attorneys and investigators will schedule a time to accompany detectives to District Court Judges, the Associate Judges or their designee for review and signature of all felony warrants during normal business hours. Intake staff or the on call attorney shall direct officers to the on-duty Magistrate after normal business hours.
- (d) Officers will obtain a warrant number from the Williamson County Magistrate's Office upon signature by a Williamson County District Judge or Williamson County Magistrate.
- (e) When officers or detectives are made aware that the subject of a Williamson County warrant has been arrested and taken to a jail other than in Williamson County, they shall notify the Intake Division at daintake@wilco.org or (512) 943-1234.
- (f) Magistrate signed warrants and affidavits/complaints will be taken to the appropriate clerk's office and a cause number will be obtained for both.
 - 1. Misdemeanor – Williamson County Justice of Peace Courts have clerk services available.
 - 2. Felonies – Officers shall obtain a warrant number from the Williamson County Magistrate's Office, located at the Williamson County Jail facility, upon signature by a Williamson County District Judge or Williamson County Magistrate.
- (g) Employees will make copies of the signed affidavits/complaints to be kept with the original warrant packet and submit the original affidavits/complaints to the appropriate clerk for retention.
 - 1. Deliver the original warrant to the Williamson County Sheriff's office located at 508 South Rock St. Georgetown, TX.
 - 2. Employees will scan and file the warrant packet.

(c) Hays County:

- 1. Prepare a complaint, probable cause affidavit and a Hays County warrant.
- 2. Detectives wishing to file charges in Hays County will contact the Hays County District Attorney's Office for guidance on the proper magistrate to present the above mentioned documents to.
- 3. Magistrate signed warrants and affidavits/complaints will be taken to the Hays County clerk's office and a cause number will be obtained for both.
- 4. Employees will make copies of the signed affidavits/complaints to be kept with the original warrant packet and submit the original affidavits/complaints to the appropriate clerk for retention.
- 5. Employees will scan and file the warrant packet.

405.2.3 SCANNING REQUIRED ARREST WARRANT DOCUMENTATION

Warrant packet items must be scanned in the following order via a Xerox scan/copy station into the G:\Xerox\Warrants folder after the arrest affidavit/complaint is signed by a judge but prior to submitting the hard copies to the Central Records/Warrant Unit.

- (a) Original signed warrant. (Copy if charges filed in Williamson County)
- (b) Copy of the affidavit/complaint signed by the magistrate.
- (c) Emergency Protective Order (EPO) for Family Violence offenses, if applicable.
- (d) Victim Notification Form for Family Violence offenses, if applicable.
- (e) Detective Warrant Served Notice form.

405.2.4 SUBMITTING DOCUMENTATION TO CENTRAL RECORDS/WARRANT UNIT

- (a) Original APD arrest warrant packets will be filed with the Central Records/Warrant Unit immediately after being scanned if the warrant is obtained during the Central Records/ Warrant Unit's normal business hours.
 - 1. If the warrant is obtained after Central Records/Warrant Unit's normal business hours, Teletype will be notified directly by phone of the arrest warrant. If the warrant meets the criteria for immediate entry, the entire arrest warrant packet will be faxed to Teletype at 974-0900.
 - 2. An exception to this rule will be authorized when the arrest warrant is served immediately upon receipt (e.g., suspect is being interviewed, suspect is under surveillance).
- (b) The arrest warrant packet will include the following documentation:
 - 1. Original warrant.
 - 2. Copy of the affidavit/complaint signed by the Magistrate.
 - 3. Copy of the suspect's drivers license and/or state ID return.
 - 4. Printout of the "PICKUP" supplement to the incident report.
 - 5. Printout of the subject's QH from CCH (state) and QH from NCIC (national). Do not submit the QR rap sheets.
 - 6. Emergency Protective Order (EPO) for Family Violence offenses, if applicable.
 - 7. Victim Notification Form for Family Violence offenses, if applicable.
 - 8. Any other information pertinent to the wanted subject or investigation.
 - 9. Detective Warrant Served Notice form.
- (c) Employees may provide a copy of a filed arrest warrant to any officer or Investigative Unit after the warrant packet has been scanned and submitted to the Central Records/ Warrant Unit. Warrants will be clearly stamped "COPY."

405.2.5 ARREST WARRANT SERVICE

Investigative Unit personnel may serve a filed arrest warrant as outlined in General Order 319 (Arrests). Warrants may also be turned over to the APD Fugitive Apprehension Unit (Travis County) or the appropriate County Sheriff's Office for service.

405.3 SEARCH WARRANTS

In order to preserve the integrity of evidence seized in search warrants and for the protection of officers involved, the following procedures are mandated regarding obtaining and executing search warrants.

405.3.1 OBTAINING A SEARCH WARRANT

Search warrants will not be obtained by any member of the Department without prior approval of a supervisor in the employee's chain-of-command. All search warrants will be written by an officer in the rank of detective or above.

- (a) Supervisors shall review and approve search warrants by placing their initials and employee number in the upper right corner on the face of the warrant application before allowing the investigator to take the warrant to a magistrate for issuance.
 - 1. Search Warrants authored by sergeants or above must seek review and approval from a supervisor one rank higher than the author.
 - 2. A blood search warrant for DWI enforcement is exempt from this order and shall adhere to General Order 355 (DWI Enforcement) and DWI Enforcement Unit SOP
- (b) The case agent will place the incident number pertaining to the search warrant in the upper right corner on the face of the warrant as soon as it is obtained.
- (c) When a search warrant is obtained relative to an offense ordinarily handled by another Investigative Unit, a supervisor of the Investigative Unit normally responsible for that type of offense will be notified prior to service of the warrant.
- (d) When a search warrant is for computer equipment that is to be examined in the computer forensics lab, the case agent should contact the ~~DART Unit or the Child Abuse unit~~ [Digital](#)

[Forensics Unit \(DFU\)](#) or use the current search warrant template available on APD's SharePoint site (under "APD Investigations SharePoint" in the links section) to obtain information on the proper wording of the ~~computer~~-digital device search warrant before taking the search warrant to a magistrate for issuance. Prior to executing the search warrant, the seizing officer should be familiar with the documents: [Best Practices for Seizing Electronic Evidence](#), [Seizing Computers and Computer Related Evidence](#) as well as [Searching and Seizing Computers and Obtaining Electronic Evidence](#), available on the DFU SharePoint site.

(e) [Williamson County requires search warrants to be staffed with a prosecutor of the Intake/Grand Jury Division. Intake attorneys and investigators shall schedule and accompany officers to District Court Judges, the Associate Judges, or their designee for review and signature of all search warrants during normal business hours. Intake staff or the on-call attorney shall assist as needed and direct officers to the appropriate judge after normal business hours.](#)

(e)(f) The appropriate Investigative Unit will normally be the one responsible for follow-up investigation of the case.

405.3.2 EXECUTION OF A SEARCH WARRANT

A supervisor will be present and in charge when any search warrant is executed.

- (a) Narcotic based search warrants will not be executed by any personnel other than those assigned to Organized Crime unless an Organized Crime supervisor has been consulted. The Organized Crime supervisor will determine whether the search warrant would damage any on-going investigation and whether prior approval has been obtained from the appropriate commander, assistant chief, or the Chief.
- (b) Prior to execution of any search warrant:
 1. The supervisor in charge will ensure that a *Search/Arrest Warrant Threat Assessment Form* (APD Form #11) is completed, and:
 - (a) Review the form for accuracy and sign the completed form in the space provided.
 - (b) Follow the provided line on the form to determine the level of threat to personnel and refer the warrant service to SWAT if required.
 - (c) Contact the on-call SWAT supervisor for consultation for assistance in completing the form or as needed.
 - (d) Ensure the form is added to the case file.
 2. Personnel assigned to Organized Crime will use the *Operational Briefing & Threat Assessment* forms as specified in their Operations Procedure Manual.
 3. If the search warrant is for computer equipment, the seizing officers should be familiar with the document *Seizing Computers and Computer Related Evidence*.
 4. A meeting will be held with all participating personnel.
 - (a) A sufficient number of officers will be assigned to execute the search warrant safely and to conduct a thorough search.
 - (b) One officer will be assigned as the seizing officer for all evidence seized and is responsible for properly tagging all evidence.
 - (c) One officer will be assigned to draw an accurate diagram of the premises. The diagram will be used to assign officers' positions for the entry to the location.
 - (d) One officer will be assigned the responsibility of seizing personal papers to show an affirmative link between the defendant(s), premises, and evidence.
 - (e) The supervisor or designee shall prepare the inventory and receipt of items seized.
- (c) The supervisor of the Investigative Unit obtaining the search warrant shall be responsible for notifying the Communications supervisor of the location and approximate time of the warrant service unless it is determined that such notification would compromise the case or jeopardize officer safety.
- (d) When executing a search warrant:
 1. Department-approved raid jackets and body armor will be worn by all plainclothes officers involved in the execution of a search warrant.

2. Department-approved body armor will be worn by all uniformed personnel involved in the execution of a search warrant.
 3. Officers will announce their agency and purpose (e.g., "Austin Police search warrant!").
 4. Personnel who have not received dynamic entry training will not participate in the entry portion of the execution of any narcotics search warrant.
- (e) Copies of the search warrant, the inventory of seized property, and the receipt form should be given to the person in charge of the premises at the time the search warrant is executed. If no one is home, copies should be left at the scene.

405.3.3 SEARCH WARRANT REPORTING PROCEDURES

- (a) The officer obtaining the search warrant is responsible for writing the original incident report.
- (b) All other involved officers will write a supplement detailing their participation and actions during the warrant service.

405.4 NO-KNOCK SEARCH WARRANTS

No-knock warrants will:

- (a) Only be employed when officer safety is an issue. They will not be used to prevent the destruction of evidence.
- (b) Be approved by a commander and the signing judge.
- (c) Will be entered into the database by completing the APD No-Knock Search Warrant SmartSheet form located on the Investigations SharePoint page by the primary detective within 72 hours after the search warrant is served.

405.5 ELECTRONIC SIGNATURES FOR ARREST AND SEARCH WARRANTS

The Department has created a process as an option for a department representative, detectives or authorized officers, to obtain arrest and search warrants remotely so they do not have to physically bring their warrant before the judge or magistrate. Department representatives electing to obtain either an arrest or search warrant through remote means shall comply with all other requirements under this order regarding warrant preparation and paperwork filing. Any arrest or search warrants obtained through APD's electronic warrant system which requires a supervisor to review and approve, shall require the supervisor to review and approve through the same system.

Department representatives choosing to obtain an arrest or search warrant through remote means shall be familiar with and adhere to the guidelines provided in the latest version of the APD Electronic Warrant Process document which can be found on APDNet under the Investigations SharePoint page. Following the guidelines in this document will ensure department representatives are accomplishing the following legal requirements of obtaining these warrants:

- (a) Department representatives shall only utilize a method and process approved by and monitored by the Department, which ensures the digital signature is applied through the use of a computer program which has appropriate security protocols to ensure the electronic signature belongs to and is authorized by the person whose signature it purports to be.
- (b) For arrest warrants, there is a legal requirement that the oath administered by the judge/magistrate to the department representative must utilize secure CJIS-compliant video-conferencing technology. The entire video and audio interaction between the department representative and the judge/magistrate, including the oath, must be recorded. The recording must be kept on file as an official record related to the investigation. To the greatest extent possible, the affidavits, warrants, and oaths administered by and provided to the judge/magistrate must utilize the same wording and format that would otherwise be used during a traditional, in-person, interaction between a department representative and a judge/magistrate.
- (c) For department representatives seeking a search warrant, the oath may be administered to the department representative by a judge/magistrate either using video conference technology or the telephone.
 1. Department representatives may use secure CJIS-compliant video-conferencing technology at their discretion and if the judge/magistrate agrees. If video conferencing is utilized, the

entire video and audio interaction between the department representative and the judge/magistrate, including the oath, must be recorded. The recording must be kept on file as an official record related to the investigation.

2. In the event that a judge/magistrate prefers, a department representative may give the oath over the telephone in lieu of using video conferencing. If the oath will be administered over the telephone, there is a legal requirement that the department representative cannot include any probable cause or additional information that is not included in the written affidavit unless additional arrangements are made to record the interaction. Therefore, a video conference should be used if the department representative provides additional information to the judge/magistrate.
3. To the greatest extent possible, regardless of which method of administering the oath is used, the affidavits, warrants, and oaths administered by and provided to the judge/magistrate must utilize the same wording and format that would otherwise be used during a traditional, in-person, interaction between a department representative and a judge/magistrate.