

SEARCH WARRANT RESPONSE PROTOCOL

INTRODUCTION

Law enforcement authorities are empowered by state and federal law to collect documents and evidence through a variety of means, including search warrants. This Protocol is designed to provide general advice in the event that law enforcement authorities seek to execute a search warrant at your facility. It is not intended to substitute for seeking your own advice from legal counsel in the event a search warrant is executed upon your facility.

RESPONSE PROTOCOL

1. Upon meeting the Law Enforcement Personnel (hereafter “Agents”), request a copy of the Search Warrant and Affidavit.
 - (a) Please make a copy of the Search Warrant and Affidavit, and turn it into a PDF.
 - (b) Send PDF to local counsel via email.
2. The Search Warrant will specify the locations to be searched and the items to be seized. Do not consent to requests from Agents to search in any other locations not specifically identified in the Search Warrant. Also, do not offer documents to the Agents that are not specifically requested.
 - (a) For example, if the Search Warrant permits a search of one hospital building only, do not consent to a search involving a second building that is not specifically identified in the Search Warrant.
 - (b) Advise the Agent that you have no authority to consent to a broader search, and that the Agent should discuss the matter with local counsel if he/she has any questions.
3. Immediately notify your supervisor, Risk Management, and local counsel of the presence of the Agents.

(a) Name of Risk Management contact: _____

- (i) Phone number 1: _____
- (ii) Phone number 2: _____
- (iii) Email: _____

(b) Name of local counsel: _____

- (i) Phone number 1: _____
- (ii) Phone number 2: _____

SEARCH WARRANT RESPONSE PROTOCOL

(iii) Email: _____

4. Obtain the name of the supervising Agent and the agency conducting the search.
5. Obtain the name and contact information of the Prosecutor/District Attorney/Assistant U.S. Attorney in Charge of the Investigation.
6. Ask for time to review the Search Warrant.
 - (a) Do not be surprised if the Agents will not give you time to review the Search Warrant before initiating efforts to secure the premises. Do not attempt to stop the Agents' efforts to execute the Warrant even if they do not give you adequate time to review the Warrant prior to beginning the search.
7. After reviewing the Search Warrant, request additional information from the supervising Agent or prosecutor, including any follow-up questions. This may include the following:
 - (a) What are the grounds for the search?
 - (b) What are the areas to be searched?
8. Ask the Agents if they will agree to delay the execution of the search until arrival of counsel. If the Agents agree to delay the search until local counsel arrives, many of the following statements/requests will be made by local counsel. However, if local counsel is not present, it is **ESSENTIAL** that these **statements/requests be made and that you write down the answers:**
 - (a) Request that counsel be given an opportunity to review and segregate any privileged materials prior to the search or seizure.
 - (b) Request that the Agents not interview employees prior to the arrival of local counsel and that counsel be present for any employee interviews.
 - (c) Advise that no employees are authorized to consent to any aspect of the search beyond the limits of the warrant.
 - (d) Advise that employees will accompany the Agents during the execution of the search.
 - (e) If electronic files are to be seized, request that, in order to avoid damage, a designated employee be permitted to assist in copying that data or disconnecting the hardware.
 - (f) Request a review of all seized documents/records prior to removal.
 - (g) Request duplication of all items that are seized prior to removal, including electronic files.
 - (h) Offer to designate an employee and computer that can be supervised by an Agent for duplication of electronic documents. If available, also offer to

SEARCH WARRANT RESPONSE PROTOCOL

- provide an employee and a copy machine dedicated to duplication of hard copy documents.
9. Assign employees to accompany the Agents during the search.
 - (a) The employees should make notes of what the Agents taken and from where the items are taken (e.g. Personnel records located in file cabinet in Manager's Office).
 - (b) The employees should make notes of any inappropriate behavior by the Agents (e/g/ Searching areas beyond the scope of what is authorized by the Warrant).
 - (c) The employees should write down the names of any employees who are interviewed by the Agents.
 10. Remind the employees accompanying the Agents that they are not authorized to consent to a broader search than is authorized by the Search Warrant and they should not offer documents to the Agents that have not been requested.
 11. Instruct non-essential employees working in areas affected by the search that they are excused from work for the duration of the search.
 12. Employees who remain on the premises should be informed of the following:
 - (a) While employees are free to observe and document the search and the activities of the Agents, they should not interfere in any way with the search; and
 - (b) Employees do not have a legal duty to agree to be interviewed by the Agents. If an employee elects to be interviewed, that employee has right to be represented by an attorney.
 13. At the conclusion of the search, ask for a copy of the Inventory, which is a log prepared by the Agents of what they are taking. Compare the Agent's Inventory log to the notes of the accompanying employees and flag any discrepancies for local counsel.
 14. After the Agents leave, local counsel will likely interview all employees who were involved in the search or who were interviewed by the Agents. Please make arrangements to have those employees available.