

MAJOR CRIME SCENE

Directive: 6.9

A. Preservation of Crime Scene

The first officers at a crime scene will render aid to the victim, then they will determine the type of crime and exact location of the scene. The officers will then contact Central and advise the nature of the crime, request line supervision if the crime is serious, and request support units if needed. They will then take control of the scene and all persons physically present at said scene.

[REDACTED]

On the arrival of the first line supervisor, he will take charge of the investigation and preservation of the scene. He will determine if specialists are needed and, if so, notify the Watch Commander.

[REDACTED]. If detectives are assigned to the investigation, the crime scene will be turned over to them with all known details, and the first line supervisor will then render aid as needed.

[REDACTED]

The Watch Commander, if the situation warrants, will respond to the crime scene and assume command until the assigned detectives arrive. He will also insure that all proper notifications are made.

As soon as he is notified, the Detective Lieutenant will assign an investigative team and designate one man as chief investigator. The Lieutenant will also respond, if needed, to generally oversee the investigation. In the event of a homicide, the detective supervisor assigned to the case, will notify the on-call Deputy Attorney General

[REDACTED]

Once a crime scene is established and secured by the initial officers, no one shall enter the scene without having been assigned a specific duty by the chief investigator. All assignments made shall be recorded in the investigative report. In order to insure integrity and control of the crime scene, the initial responding officers will record names of all persons entering the scene.

All police officers (regardless of rank), having cause to enter a crime scene, will submit a report, or cause a report to be submitted, regarding their activities at such scene. These reports will be directed to, and reviewed by, the chief investigator.

B. Search of Major Crime Scene

At major crime scenes where a suspect is not known, or the suspect has a reasonable expectation of privacy within the area of the crime scene, the following Constitutional restrictions must be observed:

The United States Supreme Court noted in *Mincey v. Arizona*, that police may make warrantless entries on premises where:

- ▶ they reasonably believe that a person within is in need of immediate aid, and that
- ▶ they may make a prompt, warrantless search of the area to see if there are other victims, or if the suspect is still on the premises.

Once a cursory inspection of the premises has been made solely to locate and attend to the victims and the suspects, the police may not process the scene or search for evidence without the legal authority of consent or a search warrant.

Any items that are in plain view during the emergency inspection may be seized.

1. Consent Search

After the emergency has been handled and it is learned that the suspect is unknown, or the suspect is a person that has a reasonable expectation of privacy within the crime scene, a consent search or a search warrant must be obtained.

The person consenting must have authority to permit the search. The rule is that only a person who has the right to occupy the premises can consent to its

search. Example: A landlord cannot consent to a search of tenant's premises.

A hotel or motel owner, or employee, cannot consent to a search of a guest's room. A business employee, unless he has specific authority, cannot consent to a search of his employer's premises. An employer cannot consent to a search of property on his premises that is within the exclusive use and control of one's employee.

It should be noted that silence is not deemed to be consent. Extra special care should be taken when seeking a consent search. Caution should be used if the person is intoxicated, lacking mental capacity, etc.

2. Search Warrant for Crime Scene

[REDACTED]

officers should keep the premises secured and immediately apply for a search warrant of the premises. Probable cause for this warrant is relatively simple and is as follows:

- a. That we, the police, were summoned to the scene of said crime.
- b. Who summoned us and who gave us permission to enter the crime scene.
- c. That on arrival, we found;
- d. That the emergency is over and the scene is secured by officers.
- e. That the suspect has some expectation of privacy within the scene.
- f. Establish ownership or occupancy of crime scene.
- g. That the search is necessary to obtain any and all physical evidence in order that we properly investigate the crime on victim's behalf and connect the suspect with the crime scene.

Once a search warrant or consent has been attained, then and only then, may an extensive and comprehensive search be conducted.

C. Search Warrants

1. In reference to executing search warrants in the nighttime, 11 Del. C. § 2308, defines "nighttime" the same as the Federal law governing this topic. The term "nighttime" shall mean the period of time between 10:00 p.m. and 6:00 a.m. (However, note, this definition of "nighttime" differs from "nighttime" as defined for Burglary purposes.)

Based on recent Delaware decisions, the need for a night time search warrant must be established. A separate paragraph should be placed in the affidavit to specifically state why the warrant must be executed in the night time. Delaware law requires that the Court must make a determination of the need for a night time warrant.

2. When executing a search warrant, police officers must knock and announce their presence as police officers and their purpose in seeking entry. Unless there are exigent circumstances presenting a strong threat of physical violence or destruction of evidence, officers may not make a forcible entry into the premises until they have waited a reasonable amount of time after knocking, which indicates that they will not be voluntarily admitted. The purpose is two fold: (1) to allow a voluntary surrender and (2) to prevent injuries. The law requires a "reasonable" standard be applied. Reasonableness is determined by the circumstances.

To further elaborate on the no-knock exceptions, suspects have no Constitutional right to destroy or dispose of evidence and no basic Constitutional guarantees are violated because an officer succeeds in getting into a place where he is entitled to be more quickly than he would had he complied with the knock-and-announce rule. Where the facts make it evident that:

- ▶ the officer's purpose is known and that announcement would be a useless gesture, or
- ▶ compliance with the knock-and-announce rule would increase an officer's peril,
- ▶ frustrate an arrest if entrance had been demanded,
- ▶ or the compliance would permit destruction of evidence,

then compliance with the knock-and-announce rule is not necessary.

A no-knock entry in execution of a search warrant must be justified by a good faith articulable belief of the police officers that full and complete compliance with the rules would increase their peril, frustrate an arrest or permit destruction of evidence. Dunfee v. State, 346 A.2d. 173 (Del. 1975).

The following fact situations illustrate the scope of this exception. Wilson v. State, 343 A.2d. 613 (Del. 1975), held that where at least one officer knew

that the defendant had a weapon on the premises and there had been a threat that it would be used, police officers were justified in entering the defendant's home to arrest him and search it for narcotics without first knocking and announcing their presence. This is an example of the type of information that should be included in the affidavit.

The officers had a good faith belief, based on substantial information, that the defendant was armed and might resist arrest, that full and complete compliance with the knock-and-announce rule would have increased the officer's peril, frustrated an arrest, or permitted destruction of evidence.

D. Obtaining and Executing Search Warrants in New Castle County Outside the City of Wilmington

Whenever a member of the Department of Police has reason to request a search warrant for a person or place in New Castle County, outside the City of Wilmington, and in the jurisdiction of the New Castle County Police Department, the following procedure will be strictly adhered to:

The Wilmington police officer will respond to the Criminal Investigation Unit of the New Castle County Police Department. A Criminal Investigator of the New Castle County Police Department will be the affiant and he will obtain a search warrant from the appropriate Justice of the Peace.

The New Castle County police officer and others, if necessary, will accompany the Wilmington police officer(s) to the location of the search and assist in same.

The search warrant will be returned to the Justice of the Peace by the New Castle County police officer who obtained it. Any fruits of other crimes occurring outside the

jurisdiction of the Wilmington Department of Police will be handled by the New Castle County Police Department.

The New Castle County Police Department has jurisdiction over all residences and businesses in New Castle County, except those located along primary and secondary roads. They also have jurisdiction over all apartment complexes located in New Castle County, regardless of their location.

E. Death Investigation

The primary responsibility of the police when investigating a reported death is to determine whether or not the death came about through criminal means.

Whenever a report of a death is made to the Department, a patrol unit and a patrol supervisor will be dispatched to the scene. These officers will conduct an investigation into the circumstances of the death and will submit the proper reports. Unless there are indications of criminal involvement in the death, this will be a crime report classified as a "Fatality." The supervisor on the scene will be responsible for completing the Report of Death Form (RCS\156-3-80). He will ascertain as much of the requested information as possible, without becoming tied up for an inordinate length of time. This Report of Death Form will be treated as a supplement report to the original incident. A copy of both of these reports will be forwarded to the Detective Division by the Quality Control Sergeant (Q.C.S.).

The Detective Division will be responsible for reviewing all death reports and determining whether any future investigation is needed. During those hours when the Detective Division is working, the supervisor on the scene will contact the Detective Lieutenant to advise him of the circumstances of the incident. In any case where there is the least suspicion that the death did not occur through natural causes, detectives will be notified and will respond to the scene to take charge of the investigation.

The fact that the police were unaware of a crime at the time they investigated a fatality is immaterial. Such an investigation (fatality) may lead later to conclude a crime occurred and evidence could be suppressed based upon expectation of privacy. Thus, it is advisable to get a consent, or a search warrant, if any suspicion arises.

F. Procedure for Scene of Decomposed Body

On certain occasions, officers will be confronted by the presence of a body in a state of decomposition, putrefication or mummification.

Where there is the existence of a strong odor from the body, and/or there is presence of fly eggs, larvae or insects, the following precautions will be taken to minimize health hazards:

1. The investigative team will contact the Communications Unit and inform them that a health hazard exists and request sufficient breathing apparatus.
2. The Communications Unit will dispatch appropriate [REDACTED]

[REDACTED] Departmental gas masks will not be used in this instance.

3. The dwelling will be kept closed while a search is underway.
4. In the period between notification of the Medical Examiner's Office and removal of the body, the dwelling should remain closed.
5. Following removal of the body, the building shall be kept closed and the Department of Licenses and Inspection shall be notified as soon as possible of the potential health hazard. The Department of Licenses and Inspection will be responsible for seeing that the health hazard is eliminated by extermination and clean up.

G. Medical Examination of Victims of Sexual Offenses

Effective immediately, all persons who are victims of sexual offenses requiring medical examinations will be treated [REDACTED]

[REDACTED]

[REDACTED]

H. Rape Crisis Center Role

A group of community women have formed an organization known as the "Rape Crisis Center of Wilmington." Their purpose is to assist the victims of rape attacks with their emotional problems. Personnel of the Rape Crisis Center will not involve themselves in any police investigation or attempt to hinder any investigation.

I. Police Officer's Notes

In virtually all criminal cases, police officers involved in the arrest and/or investigation make handwritten notes. From these notes, police reports are prepared. It is **absolutely** essential that a copy of every officers' notes be made and attached to the police report.

Under Delaware Law, the contents of an officer's notes may be discoverable before trial and are subject to disclosure to defense counsel if an officer testifies. So as to avoid problems with the supreme Court and the prosecution of individual cases, it will be the policy of this department that all handwritten notes be made a part of any police report prepared within this department.