

ISSUE DATE: March 28, 2023  
EFFECTIVE DATE: May 18, 2023  
REVISION DATE: XX/XX/XX

RECOMMENDER: Sarah Begeal LCSWR DATE: 5/18/23  
Sarah Begeal, Deputy Director of Community Services

ADMINISTRATIVE APPROVAL: Lori Morgan LCSWA DATE: 5/18/23  
Lori Morgan, Director of Community Services

COMMUNITY SERVICES BOARD APPROVAL: John Bezirgianian MD DATE: 5/18/23  
John Bezirgianian, Medical Director &  
Community Services Board Chair

REASON: Update to the 18 NYCRR Part 521 Regulations AND;  
Amendments of the New York State Social Service Law Section 363-D

**Policy and Procedure: Corporate Compliance**  
**Topic: Search Warrants**

**Purpose:**

A search warrant permits agents to immediately seize documents and other types of information. The execution of a search warrant can be seriously disruptive and frightening for many employees. Furthermore, if not handled properly, an organization subject to a search warrant may compound its problems. Therefore, TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE (sometimes referred to as "TCDMH" or "TCMH") has established this policy to advise all employees how to appropriately respond to an official search warrant.

**Policy:**

It is the policy of TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE to respond professionally and cooperate with the lawful execution of a search warrant.

**Regulatory Reference:**

N/A

**Procedure:**

1. Employees are expected to remain courteous and professional when dealing with agents executing a search warrant. Employees will not interfere with the lawful execution of a search warrant.
2. The senior staff member present is responsible for contacting the Director of Community Services/designee, who will contact the Compliance Officer and legal counsel and carry out the response procedures.
3. The responsible senior staff member will:
  - a) Obtain and record the name of the lead agent and the agency they represent. *Do not attempt to photocopy the credentials of an agent – it is a violation of Federal law.*
  - b) Request to view and photocopy the search warrant document. Agents are not required to provide a copy, but often will comply with a request for a copy. If a copy will not be provided, review the warrant and take notes on the scope and details of the search warrant.
  - c) Immediately contact the Director of Community Services/designee and provide them with details of the search warrant. The Director of Community Services/designee will contact the Compliance Officer and legal counsel and provide details of the search warrant. The Director of Community Services/designee will identify one employee to be responsible for responding to the agent’s questions.
4. The agent is limited by the scope of the warrant to where they can search and what they can seize. If the agent requests access to areas or documents that are not within the scope of the search warrant, do not consent to an expanded search.
5. Request an “inventory list” of the documents and items seized by the agents. Ensure that it is detailed enough to properly identify the documents and items taken by the agents. Maintain a separate record for each of the areas searched, listing the documents/items seized from the area.
6. Other than providing information to direct the agents to information requested, do not submit to any form of questioning or interviewing.
7. Always remain present while the agents are conducting the search.

**Senior Management Responsibilities**

The Director of Community Services/designee will carefully examine the search warrant (with legal counsel, if possible) to:

- Determine the specific areas or locations that it covers.
- Ensure that it is being executed during the hours indicated on the document (most warrants should limit the hours they can be executed, e.g., “daylight hours”).
- Ensure that it has not expired (all warrants should have an expiration date).

- Ensure that it is signed by a Judge (all warrants should be signed by a Judge).
- Speak to employees and advise them to cooperate in the search by facilitating the search team's ability to locate records or items that they are entitled to seize or by opening containers that they are entitled to search.
- Relieve all non-essential personnel from duty until the search is complete.
- Avoid any substantive conversation with the agent. If legal counsel is available by phone or at the scene, refer all questions to counsel.
- Advise employees that they have the right to speak to law enforcement, or to refuse to speak to law enforcement (a search warrant does not compel speech), or to consult with an attorney before speaking to law enforcement. If you yourself decide that you want to speak to law enforcement, it is best to defer that conversation until you have had a chance to consult with legal counsel and legal counsel has had an opportunity to arrange the terms of the interview. If employees decide to speak to law enforcement, you should advise them to answer questions completely, accurately, and truthfully.
- Politely object if there is any overt flaw in the search warrant (as described above) or if the agents are searching anything deemed to be outside the scope of the warrant. Do not interfere should agents proceed and search. Note the fact for legal counsel to support a future protest.

### **Sanction Statement:**

Non-compliance with this policy may result in disciplinary action, up to and including termination.

### **Compliance Statement:**

As part of its ongoing auditing and monitoring process in its Compliance Program, TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE will review this policy based on changes in the law or regulations, as TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE's practices change, and, at minimum, on an annual basis. Additionally, this policy will be tested for effectiveness on an annual basis or more frequently as identified in accordance with TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE's Compliance Program. Testing will include but is not limited to ensuring that the policy is appropriately followed; the policy is effective; the policy has been disseminated to all affected individuals, as well as notified of any updates or changes.

Tracking of the criteria above and results of this testing will be completed by the Compliance Officer, or designee. Additionally, results will be reported to the Compliance Committee and Governing Body on a regular basis.

### **Record Retention Statement:**

TIOGA COUNTY DEPARTMENT OF MENTAL HYGIENE will retain this policy and all subsequent revisions, and any related documentation will be retained for a period of, at minimum, six years.