



Transcript: Warrants to Enter and Search

Name	Dialogue / Actions
Richard	Hi again, my name's Richard. This scenario will address warrants to enter and search. The format of this scenario is a team discussion of what might have happened if a patient under an involuntary treatment order (community) refused to be taken to an authorised mental health service under the non-compliance provisions.
Matilda	Let's review the situation where Michael refused to be taken to the authorised mental health service under the non-compliance provisions. Although the police were in attendance with the authorised mental health practitioners they weren't able to enter the premises where Michael was living because he refused to let them enter. The police are authorised under section 609 of the <i>Police Powers & Responsibilities Act 2000</i> to enter a place if there is imminent risk of injury to that person, however, the police assessed that this didn't apply in Michael's situation. So what else could have happened?
Edward	As Michael was refusing entry to the premises, it would have been possible for the authorised mental health practitioners or the police to apply for a warrant under the <i>Mental Health Act 2000</i> .
Isobel	Can you please tell me about the warrant provisions?
William	Well normally, entry to a dwelling to locate a patient can only occur if the occupier consents or it's a public place. However, it is possible to gain entry when authorised by a Magistrate. This is done by completing an <i>application for a warrant for apprehension of the patient</i> form which must be sworn before a Justice of the Peace or a Commissioner for Declarations and forwarded to the Magistrate. If the Magistrate agrees, a <i>warrant for apprehension of the patient</i> is completed. This warrant authorises the police to enter the dwelling to detain Michael and take him to the authorised mental health service.
Matilda	As always there are exceptions. If a <i>requirement to return to authorised mental health service</i> form had been issued and if Michael was a classified patient, forensic patient or the subject of a court order, the police could have entered the premises without the permission of the occupier.
Isobel	Who completes the <i>application for warrant for apprehension of patient</i> form?
William	An authorised person such as a health practitioner, an ambulance officer or a police officer.
Isobel	What happens when the Magistrate completes the <i>warrant for apprehension of patient</i> form?
William	The warrant gives the police the authority to detain Michael and take him to the authorised mental health service. However, the warrant states the hours of the day when entry could be made and the date of expiry (which must be within 7 days after the date the warrant was issued).
Isobel	Can the police just barge into Michael's home?
Edward	No, they have to identify themselves to the person who is an occupier of the place; give them a copy of the warrant; and tell them the police officer is permitted by the warrant to enter and search the place for the patient.



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Edward	In urgent circumstances or where the authorised person or police officer is in a remote location a Special Warrant may be applied for by completing the <i>application for warrant for apprehension of patient</i> form stating the grounds on which the special warrant is sought. The application must also be sworn before a Queensland Justice of the Peace or a Commissioner for Declarations, however this may occur after the special warrant is issued.
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