

What to do in a dawn raid - part 2

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Before the inspection begins and any documents are provided, find out as much as possible from the investigators about the investigation, its origins and focus.



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Appoint one or more administrative officers to keep a full record of everything said during the preliminary discussions.

Decide on a strategy for the inspection and try to agree with the investigators who will deal with each subject or office. It is preferable that the investigators agree to have documents brought to them in paper form (perhaps with a subsequent tour of the offices), although they will often insist on inspecting paper and electronic files in the offices and on the individual computers where they are kept.

Only business records and documents specifically relating to the investigation as defined in the official authorisation or warrant should be made available to the investigators for examination.

Keeping records

It is very important to keep a detailed record of all the documents given to or seen by the investigators and/or of which they take a copy (for example, referring to the date, the author, the heading, the addressee and whether the document is an original or a copy).

Record documents seized in a dawn raid on a template that can be used. Ask the investigators to sign this record, particularly if they do not provide a list of documents that have been copied when leaving.

The investigators will be entitled to examine documents held in electronic form as well as hard copy documents. The investigators may also have their own IT expert who will be tasked with finding all relevant documentation on the IT network (including deleted files). They will normally wish to perform search strings for key words and phrases both on centrally held files (eg, on dedicated servers) and on individual computers. It is important that an IT expert, presumably the in-house person responsible for information technology, be available to assist in this process and monitor its implementation. If the investigators insist on taking electronic files (eg, the contents of a hard drive), a copy should be retained if it is possible to negotiate this with the Commission.

Supervision

A legal representative or senior manager should also be present at all times to supervise the performance of such searches and to assess the nature of the documents captured by the search. If the investigators split up and go to different offices, a legal representative should accompany each of them to record what they are looking for and what they have seen. If no legal representative is available, a senior manager should accompany the investigator. A legal representative or senior manager should as far as possible remain with each investigator during the entire time they remain in the building.

The investigators may search desks, filing cabinets, briefcases, company and private cars, private diaries (paper and electronic) etc. Investigators may also search domestic residences if company documents are kept there or if the residence is used in connection with the company's business. In addition, persons may be searched if there are reasonable grounds for believing that the person is in possession of any document or equipment relevant to the investigation.

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