

Warrant Reform- Model Legislation

Comprehensive search warrant reforms are critical for reducing unnecessary violence and preventable deaths, as well as increasing accountability for officers' misconduct. *(insert/jurisdiction name)* is enacting the search warrant reforms, outlined below, to keep our communities safe and ensure justice for all.

No Knock Search Warrants* are hereby banned in *(insert name of jurisdiction)* from use except under the following, extreme circumstances: investigating and/or pursuing suspected offenses/offenders that involve murder, an active-shooter, hostage-taking, kidnapping, terrorism, human trafficking and barricaded suspects with a violent history. In such cases, all no-knock warrant requests must receive final approval from a judge and/or magistrate in *(insert name of jurisdiction)*.

Search Warrant Issuances:

1. The judge, magistrate, or other official authorized to issue criminal warrants, shall issue a search warrant if s/he finds, from the facts or circumstances recited in the affidavit, that there is probable cause for the issuance thereof.
2. Every search warrant shall be directed to the sheriff, sergeant, or any law enforcement officer of the county, city, or town in which the place to be searched is located.
3. If the application is for a No-Knock warrant, the application must include:
 - a. an explanation of how the circumstance rises to the no-knock criteria of extreme circumstances (i.e. investigating and/or pursuing suspected offenses/offenders that involve murder, an active-shooter, hostage-taking, kidnapping, terrorism, human trafficking and barricaded suspect with a violent history)
 - b. what investigative activities have been undertaken and what information has been gathered in the course of such activities to support the request for a no-knock search warrant, or why no such investigative activity is needed
 - c. an explanation for why the affiant would be unable to detain the suspect or search the premises without knocking or announcing their presence and using other less invasive methods
 - d. if trained tactical operators, such as SWAT team members, are not acting as the initial entry team, there must be documentation to verify that the officers performing the initial entry are trained in tactical entry operations.
 - e. whether the no-knock search warrant can effectively be executed during daylight hours and, if not, what facts or circumstances preclude effective execution in daylight hours/
4. All search warrants shall contain:
 - a. the date and time the warrant was issued
 - b. name of the affiant
 - c. the identity, including name and description, of the person for whom a search warrant is being issued
 - d. the offense, or probable cause, cited within the affidavit
 - e. the objects or persons described in the warrant, if found there, to be seized (an inventory shall be produced and reported following the execution of the warrant)
 - f. location and description of the place, or places, to be searched
 - g. a list of estimated ages and gender of any additional occupants, as well as any known individuals with cognitive and/or physical disabilities and pets at the property to be searched
 - h. the officer's intended action if the person(s) for whom the search warrant is being issued, or any occupant of the property, does not respond to the door after the thirty (30) second wait time (e.g. proceed with a dynamic, forcible entry or return to execute the warrant at a different time). The intent to utilize a dynamic entry must be justified through the criteria of verifiable exigent circumstances and included in the warrant execution report.
5. Any search warrant not executed within seven (7) days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

6. An officer must provide evidence gathered twenty four (24) hours, or less, prior to the execution of the search warrant to verify the person, for whom the search warrant is being issued, is present at the residence to be searched and verify that there are no significant changes to information contained within the application.

When executing all search warrants that are not no-knock warrants:

1. Officers shall be clearly recognizable and identifiable as law enforcement officers in uniform. Officers shall wear visible badges containing names and identification numbers. Unmarked, plain clothes are not to be worn.
2. The knock on the entrance of the property, and the verbal identification of law enforcement officers, shall be pronounced at a volume loud enough for officers to reasonably believe the suspect/s inside could hear.
3. Law enforcement officers shall allow a minimum of thirty (30) seconds for the occupants to respond and open the door before they attempt to enter the residence, absent the existence of verifiable, exigent circumstances.*
4. All officers shall be equipped with body cameras, each of which shall be tested no earlier than twenty-four (24) hours prior to the execution of the search warrant to ensure they are functioning, or other video and audio recording devices, turned on at least five (5) minutes before the warrant is executed and to remain on five (5) minutes after the warrant service process is complete (i.e. until the search for contraband is complete).
5. Officers shall not use flash bang, stun, distraction or other similar devices unless verifiable, exigent circumstances* exist.
6. The execution of all search warrants must be conducted between 9:00am and 7:00pm.
7. Upon arrival at the premises to be searched, and before effecting a no-knock entry, officers must conduct a threshold reappraisal of the situation to determine if any change in circumstances has obviated the need for a no-knock entry or has created a risk that a no-knock entry will result in injury to or death to any bystanders or third-persons inside or outside the premises.

Following the execution of all search warrants:

1. A Warrant Execution Report** shall be completed and submitted within seventy-two (72) hours of the execution of a search warrant.
2. The completed Warrant Execution Report and all audio/video footage related to the execution of search warrants must be stored and made available for review by the (*insert name of jurisdiction*), city council, the (*insert name of jurisdiction*) District Attorney's office and an independent, civilian review board. Warrant reports and footage are to be reviewed on a bi-annual basis, at a minimum.
3. All body camera footage and audio, audio recordings, and all other data recorded in the course of executing a search warrant shall be retained for a period of not less than twenty four (24) months and shall be preserved for a longer period upon request.
4. Property and/or cash cannot be seized during the course of the search unless a lawful arrest is made and these assets will be returned to the arrestee if s/he is not convicted of the crime listed in the arrest within thirty (30) days of the conclusion of the criminal proceedings. Any and all assets seized must be properly accounted for and documented in the warrant execution report.
5. Restitution shall be made to any owner of a residence that experienced damaged or destroyed property during the execution of a search warrant, unless such owner of the property is convicted of a crime pursuant to the search warrant.
6. Officers in violation of these warrant requirements shall be subject to consequence, including, but not limited to: suspension of duty, fines and/or termination for violating warrant requirements.
7. Any evidence obtained from a search warrant in violation of this subsection shall not be admitted into evidence in any prosecution related to this search.

***No Knock Search Warrant:** Any search warrant issued by a judge and executed upon a premises that does not require those executing the warrant to knock and announce themselves and their purpose at the premises.

****Verifiable Exigent Circumstances:** Verifiable exigent circumstances are defined as an event occurring in real-time that is life-threatening to the officer(s) and/or an occupant(s) of the property. In such cases, the officer(s) must be able to verify the perceived threat through video footage, required documentation and witness statements. Examples of verifiable exigent circumstances could include: hearing a round being chambered in a gun, an occupant screaming something threatening, seeing through a window an occupant or hostage held by a firearm, etc.

*****Warrant Execution Report:** Following the execution of all search warrants, the following information must be reported within seventy two (72) hours of the warrant execution and stored for annual review:

1. Names of the officer and agency which obtained the warrant
2. The prosecutor and prosecuting office that drafted the warrant
3. Whether the information contained in the support affidavit were based upon a confidential informant or an identified citizen informant or a police officer (none of whom shall be named)
4. The judge who signed the warrant and the court that issued the warrant
5. Whether the application for the warrant issued was previously submitted to another judge other than the judge Who issued the warrant. If there was a previous application, the report must include:
 - a. When such application(s) were made and the result of each application
6. The date the warrant was applied for and the date and time the warrant was signed
7. The date and time the search warrant was executed
8. The evidence and/or surveillance gathered twenty four (24) hours, or less, prior to the execution of the search warrant that verified the presence of the person for whom the search warrant was issued was present at the residence being searched.
8. The age gender and race of the individual to whom such search warrant was directed
9. Whether physical force or deadly force was utilized, if the 30 second entry requirement was breached, and/or if flash bang devices were deployed. If any of the aforementioned occurred, the report must contain
 - a. the verifiable exigent circumstance/s to substantiate the breach of the thirty (30) second entrance requirement
 - b. the verifiable exigent circumstance/s to substantiate the us of flash bang devices
 - c. whether any individuals and/or animals were injured or killed and if so,
 - i. the age gender and race of each person
 - ii. the manner of injury or death
 - iii. the status of each person killed or injured specifying whether each was the subject of the search warrant, a police officer or a third party
10. The address where the warrant was executed, including the street address city or town, county and zip code
11. The result of executing the warrant specifying whether evidence was seized and if so, a description thereof and whether or not the evidence seized was the subject of the warrant
12. The names of any individuals were arrested and if so ,whether the subject of the warrant was arrested or other individuals not named in the warrant were arrested
13. Whether any property was damaged during the course of executing the warrant and a description thereof
14. Any associated citizen complaints made regarding the execution of the search warrant.
15. All associated data/information will be made publicly available within two (2) weeks of the associated case closing.