

Lee, Katherine

From: Louis, Jennifer A.
Sent: Thursday, May 6, 2021 3:54 PM
To: Montgomery, Daniel R.; Lee, Katherine
Cc: Martinez, Maritza; Rolleri, Rico; White, David; Williams-Ridley, Dee; Louis, Jennifer A.
Subject: Policy 606 Warrant Service
Attachments: 606 Warrant Service (12).pdf

Good afternoon,

I understand this item will be part of the next PRC agenda and I wanted to provide the following as I will be unable to attend the meeting due to a conflicting Reimagine Public Safety Task Force meeting.

The Department met with the Search Warrant Subcommittee and the Police Review Commission several times over the last few months in an effort to collaborate, hear concerns and share perspectives regarding the service of warrants as a whole by BPD, as well as specifically around the issue of "No-Knock" warrants. The Subcommittee heard from academic experts in the field, citizens and experienced investigators. The Department also obtained feedback from the City Attorney's Office on several sections. This process helped to clarify practices, describe industry best practices, and give voice to community concerns. BPD shares those concerns by the community and agree that the Sanctity of Life is a critical component in everything we endeavor to do in service to the community.

While the department sought to maintain "No-knock" warrants in situations "limited to circumstances involving significant threat to life and proposed several layers of oversight and approval up to requiring approval by the Chief, we very much took into consideration the feedback and perspectives that were shared with us. We recognize and understand the growing concerns about the use of "No-Knock" warrants. Although we believe the use of "No-knock" warrants could in some circumstances reduce risk, the Department is prepared to implement Policy 606 including the recommended PRC language prohibiting the practice.

Attached is what I understand represents the most current version of Policy 606 with the complete ban of "No-Knock" warrants. I support this version of the policy.

With respect,

Jen Louis
Interim Chief of Police

Warrant Service

606.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

606.2 POLICY

It is the policy of the Berkeley Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants. The Sanctity of Life is a guiding principle.

606.3 SEARCH AND ARREST WARRANTS

Officers should receive authorization from a supervisor before preparing a warrant application. Once authorization is received, the officer shall prepare the affidavit and warrant and submit the documents to a supervisor for review and approval.

No-knock warrants shall not be prepared, authorized, or executed by Berkeley Police Officers.

606.4 WARRANT PREPARATION

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the

affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.

- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application.

606.5 RISK ASSESSMENT

When a search or arrest warrant service is planned for a residence, or for locations or subjects that present elevated risk, the supervisor shall complete the Risk Assessment Worksheet and submit it, along with the Operation Plan, to the Chain of Command for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting or detaining the person outside the residence where circumstances may pose a lower risk.

If the warrant is classified as high risk, the supervisor shall contact the Bureau Lieutenant or Division Captain to arrange a consultation with the Special Response Team (SRT) Commander.

606.6 HIGH-RISK WARRANT SERVICE

The SRT Commander or his/her designee shall review warrants that are categorized as high risk and shall confer with the Operations Division Captain to determine the manner in which the warrant will be served, including the number of officers deployed. Only the Chief of Police, or his/her designee, may authorize the use of SRT.

606.7 WARRANT SERVICE PROCEDURES

The member responsible for directing the service should ensure the following as applicable:

- (a) Prior to making entry into a location, officers shall allow occupants a reasonable amount of time to come to the door given the totality of the circumstances.
- (b) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (c) The warrant service is video recorded in accordance with General Order 425.7 "Activation of the Body Worn Camera."
- (d) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated

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- members to the presence of potential evidence and not touch or disturb the items.
- (e) Searches are conducted in a thorough, organized and systematic manner. Focus should be on leaving nothing undiscovered within the limit/scope sanctioned by the warrant, without causing unnecessary damage to the location or property.
 - (f) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
 - (g) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
 - (h) A Search Warrant Receipt is made containing a list of all items seized and a copy shall be provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
 - (i) A copy of the search warrant is left at the location.
 - (j) The condition of the property is documented with video recording or photographs after the search.
 - (k) Any damage incurred as a result of the search, such as a breached door, is photographed and documented.
 - (l) Written information is provided explaining how to submit a claim with the City of Berkeley regarding any damage.

606.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used. Once it is reasonably safe to do so, officers should carefully secure all firearms.

When it is determined that an individual detained at the scene of a warrant service is not subject to the scope of the warrant and that no reasonable suspicion or safety concerns exist, the person should be released from the detention.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

606.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

606.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The Watch Commander will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and

will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the Watch Commander. The Watch Commander should review the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The Watch Commander should ensure that members of the Berkeley Police Department are utilized appropriately. Any concerns regarding the requested use of Berkeley Police Department members should be brought to the attention of the Division Captain. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If officers intend to serve a warrant outside Berkeley Police Department jurisdiction, the case officer shall provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Berkeley Police Department when assisting outside agencies or serving a warrant outside Berkeley Police Department jurisdiction.

606.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

606.12 WARRANT DETAIL

The Warrant Detail shall be responsible for the service coordination of adult arrest warrants.

Planned service of arrest warrants should be prioritized by the type of warrant (original, bench, traffic) and severity of offense (felony, misdemeanor, infraction).

- (a) Notwithstanding standard considerations, service of arrest warrants involving dangerous offenders should be given priority.

606.13 The Automated Warrant System (AWS)

Arrest warrants issued by the Alameda County Superior Court and assigned to the Berkeley Police Department shall be processed into AWS by the Support Services Bureau.

Arrest warrants will not be entered into AWS unless they contain all of the following information:

1. Date and time received;
2. Date of issuance by the Court;

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3. Nature of document (i.e., offense);
 4. Source of document (i.e., original or bench warrant);
 5. Court docket/warrant number;
 6. Amount of bail; and,
 7. Whether or not endorsed for night service.

606.14 Jail and Communication Center Responsibilities

The Communication Center shall be responsible for warrant confirmation liaison with, and communication of teletype abstracts to, outside agencies serving local arrest warrants.

Jail staff shall be responsible for the update of computer records (i.e., AWS, CLETS) regarding the service of arrest warrants and related custodial status of the subject person who is booked into the Jail.

Jail and Communication Center personnel shall forward all records that relate to the service of arrest warrants to the Warrant Detail.

606.15 Due diligence

The Warrant Detail shall have administrative due diligence responsibility regarding the service of adult arrest warrants assigned to, or requested of, this department.

- (a) When the subject of a local arrest warrant lives in a jurisdiction other than Berkeley, the Warrant Detail may communicate the warrant information to and request service assistance from the involved outside agency.
- (b) When notified of warrant service activity, the Warrant Detail shall update AWS or, if it's an outside agency warrant, communicate the service activity to the responsible agency.
- (c) As necessary, the Warrant Detail shall assist the Youth Services Detail in managing administrative due diligence activity regarding the service of juvenile arrest warrants.

606.15 Courtesy Notice

The Warrant Detail shall send a courtesy notice regarding the issuance of an arrest warrant assigned for service by this department to the address indicated on the warrant. The Warrant Detail should research for a current or accurate address for the subject of an arrest warrant.

606.16 TRAINING

The Personnel and Training Sergeant should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.