



Police Review Commission (PRC)

## **SUBCOMMITTEE ON WARRANT SERVICE POLICY**

Commissioners: Izzy Ramsey (Chair), Kitty Calavita, Michael Chang  
Public member: Kitt Saginor

**Thursday, January 28, 2021  
3:00 p.m.**

### **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, this meeting of the City of Berkeley Police Review Commission's Subcommittee on Police Acquisition & Use of Controlled Equipment Ordinance will be conducted exclusively through teleconference and Zoom videoconference and there will not be a physical meeting location available.

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/84233073529>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial 1 669 900 6833 and enter Meeting ID 842 3307 3529. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

- 1. CALL TO ORDER**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**

*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on this agenda only.)*

- 4. OLD BUSINESS (discussion and action)**

Review Berkeley Police Department draft Policy 606, Service of Warrants.

- a. Presentation by BPD staff on current practice for service of arrest and search warrants.

(See materials posted for this subcommittee at:  
<https://www.cityofberkeley.info/ContentDisplay.aspx?id=12962>)

**5. SCHEDULE NEXT MEETING DATE**

**6. ADJOURNMENT**

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**Communication Access Information (A.R.1.12)**

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**SB 343 Disclaimer**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public by being posted on the Police Review Commission's web page within three business days of the meeting.

Contact the Police Review Commission at (510) 981-4950 or [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info).

Notes from the PRC Subcommittee on Warrant Service Policy

January 14, 2021

Notes by Commissioner Calavita

The meeting came to order at 4:03pm. Present were Commissioners Ramsey, Chang and Calavita, and subcommittee member from the public, Kitt Saginor. Also present were representatives from the BPD, Lts. Turner and Montgomery. PRC Officer Kathy Lee was there for crucial zoom support.

Commissioner Izzy Ramsey was elected Chair of the Subcommittee. The subcommittee agreed that we should complete our work at least by the end of May so as to present to the full PRC by early June.

The subcommittee decided to ask several experts to form a panel for a meeting, possibly in 3 weeks. Commissioner Chang will inquire if Professor David Sklansky from Stanford Law School can participate in such a panel. Commissioner Ramsey will inquire about someone coming from Orlando, Florida where they seem to have a no-knock policy.

On January 28, the BPD will provide a current redlined Policy 606 ("Warrant Service"), and give a brief presentation on BPD's current practice in serving arrest and search warrants. We understand it has been BPD's practice for some years not to do no-knock warrant service although it is not written policy. The subcommittee would also be interested in hearing about practice regarding "quick-knock" or "knock-and-announce" warrant service, and night service, among other aspects of warrant service.

The subcommittee will meet again on January 28 at 3pm..



## 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.

### 606.3 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant and submit the documents to a supervisor for review and approval. The supervisor will complete the risk assessment form and submit it, along with the Operation Plan, to the appropriate supervisor for review and classification of risk (see the Operations Planning and Deconfliction Policy).

Any no-knock search warrant application shall be approved in writing by the Chief of Police or their designee prior to being submitted to the courts for approval ]★

### 606.4 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should notify the appropriate supervisor of the need for review and classification of risk (see the Operations Planning and Deconfliction Policy).

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

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residence where circumstances may pose a lower risk.

#### **606.5 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.

Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

#### **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.

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

- (a) 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.
- (b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- (c) 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 members to the presence of potential evidence and not touch or disturb the items.
- (d) 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.
- (e) Persons who are detained as part of the warrant service are handled appropriately under

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the circumstances.

- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A Search Warrant Receipt is made containing a list of all items seized and a copy is provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.
- (j) Any damage incurred as a result of the search, such as a breached door, is photographed and documented.

#### **606.7 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 and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

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

#### **606.8 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.

#### **606.9 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

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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 should 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.

#### **606.10 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.

#### **606.11 WARRANT DETAIL**

##### **607.11.1 The Warrant Detail Responsibilities**

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 potentially dangerous offenders should be given priority.

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 that do not include the following information will not be entered into AWS:

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

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### 606.11.2 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.

### 607.11.2 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.

### 607.11.3 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.

## **606.12 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.

