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# CITY OF POMONA

## COUNCIL REPORT

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February 1, 2021

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Michael Ellis, Chief of Police

**SUBJECT: ADOPTION OF A RESOLUTION PROHIBITING THE USE OF NO-KNOCK WARRANTS BY POMONA POLICE PERSONNEL**

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### **RECOMMENDATION:**

It is recommended that the City Council consider and adopt one of the following resolutions (Attachments No. 1 and No. 2):

- 1. RESOLUTION NO. 2021-15 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, PROHIBITING THE USE OF NO KNOCK WARRANTS BY POMONA POLICE PERSONNEL, WITH LIMITED EXCEPTIONS FOR THE PRESERVATION OF LIFE**
- 2. RESOLUTION NO. 2021-16 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, PROHIBITING THE USE OF NO KNOCK WARRANTS BY POMONA POLICE PERSONNEL**

### **EXECUTIVE SUMMARY:**

Action on this item is to approve a resolution regulating the use of no-knock warrants by Pomona Police Department personnel. Two versions of the resolution are being presented for Council consideration. Option one would affirm the Police Department's policy that prohibits the use of no-knock warrants, with limited exceptions, for incidents involving the preservation of life and only when authorized by the Chief of Police. Option two would enact a complete prohibition on the use of no-knock warrants by Pomona Police personnel.

**FISCAL IMPACT:** None

## **PREVIOUS RELATED ACTION:**

During the December 21, 2020 City Council meeting, Council directed staff to bring this item back for consideration.

## **DISCUSSION:**

### **Background**

In August of 2020 a series of meetings began between the Chief of Police and a group of community members led by the Pomona Valley Branch of the NAACP. The meetings focused on no-knock warrants and the related policies and practices of the Pomona Police Department.

The community group's concern about no-knock warrants arose from the national discussion on police reform and no-knock warrant cases from throughout the country that have ended tragically; to include the death of Breonna Taylor, who was shot and killed by police officers in Louisville, Kentucky. The meetings first focused on the law as it relates to no-knock warrants in the State of California. The discussions then led to an education and understanding of the current policies and practices employed by the Pomona Police Department. Finally, a policy discussion on the future of no-knock warrants and their place in modern policing in Pomona took place.

The discussions resulted in a new policy being adopted by the Police Department (Attachment No. 3) to reflect the fact that no-knock warrants are not used by Pomona Police personnel. An exception was left in place to allow a no-knock warrant in the extremely remote chance it would be needed for the preservation of life in a case that involves certain serious violent felonies. These violent felony offenses include an investigation related to a hostage situation, terrorism or human trafficking where an imminent threat of harm or death exists. If the use of a no-knock warrant could lead to a safer conclusion to an incident for the victim, officers and/or suspect, then it is preferred to have this tool available to law enforcement in order to preserve life. The policy requires the Chief of Police, a deputy district attorney and a judge to review and/or approve any request for a no-knock warrant under these circumstances. The policy also requires medical aid to be staged in the area of any warrant service.

The community group desires a city policy that enacts a complete prohibition on no-knock warrants in all cases, without exception. They desire this in order to prevent situations that have occurred in other parts of the country from occurring in our community. After many respectful and informative discussions, the Chief and the community group diverged on this single point, which has prompted the issue to be brought before the City Council for a policy decision.

### **No-Knock Warrants Defined**

A no-knock warrant is a search warrant where a judge has waived the "knock and announce" requirement based on a set of facts presented by an investigator. Typically those facts revolve around a need to prevent the destruction of evidence inside a home or to lessen a threat of violence to people in the home or to police personnel. With judicial approval, officers can enter a residence without first knocking on the door, making an announcement such as "Police, Search Warrant", and then waiting a reasonable period of time before forcing entry. Knock and Notice originates

from the Fourth Amendment's protection against unreasonable search and seizure and is also generally required pursuant to California Penal Code 844 and Penal Code 1531.

*Penal Code 844 – To make an arrest, a private person, if the offense is a felony, and in all cases a peace officer, may break open the door of window of the house in which the person to be arrested is, or in which they have reasonable grounds for believing the person to be, after having demanded admittance and explained the purpose for which admittance is desired.*

*Penal Code 1531 – The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance.*

Judicial Officers in California have the ability to authorize a no-knock warrant based on the decision in *Wilson v. Arkansas* (1995) 514 U.S. 927, where the U.S. Supreme Court held that the knock-and-announce rule is only one of many factors in determining whether a search is reasonable under the Fourth Amendment. In addition, no-knock warrants are authorized by the U.S. Supreme Court decision in *Richards v. Wisconsin* (1997) 520 U.S. 385, where the Court held that no-knock warrants are not unconstitutional and may be authorized by a judge on a case-by-case basis. Pursuant to the *Richards* decision, no-knock warrants are justified when police officers have a "reasonable suspicion" that knocking and announcing their presence before entering would "be dangerous or futile, or . . . inhibit the effective investigation of the crime." *Richards v. Wisconsin*, supra, at p. 394.

#### **Current Pomona Police Department Policy**

The Pomona Police Department does not utilize no-knock warrants in its day-to-day operations and staff cannot recall a time when one was ever used. The Chief and the community group were able to find significant common ground on this topic which resulted in a new department policy being adopted in December of 2020. The policy states, in part:

*PPD Policy 608.4.1 - The use of no-knock warrants by Pomona Police personnel is generally prohibited, with the exception that Pomona Police Personnel may only seek to obtain a no-knock warrant when one is deemed necessary in connection with investigating a violent felony where the preservation of life necessitates such a tactic. Examples include investigations involving hostage situations, human trafficking and terrorism related incidents.*

*No Pomona Police Officer shall seek a no-knock warrant from a judicial officer without first obtaining approval of the proposed tactics by all of the following, in order: 1) an Officer's supervisor, 2) the Operations Director (see the Operations and Deconfliction Policy), 3) the Chief of Police, and 4) a reviewing Deputy District Attorney.*

*A supervisor in charge of any authorized no-knock warrant service will ensure paramedics and fire personnel are pre-staged in the immediate area to provide medical aid as needed.*

**ALTERNATIVES:**

The Pomona Police Department values life and is committed to enacting policies that reflect the needs of the community. The Police Department is also committed to working with the community in a collaborative way to increase trust and transparency whenever possible.

Two options are presented to the City Council for consideration. Option one, which affirms the Police Department's current policy that prohibits no-knock warrants, with limited exceptions. Option two, which enacts a complete prohibition on the use of no-knock warrants by Pomona Police personnel.

The City Council has the following alternatives:

- 1) Adopt Resolution No. 2021-15
- 2) Adopt Resolution No. 2021-16

Prepared by:

Michael Ellis  
Chief of Police

**ATTACHMENT(S):**

Attachment No. 1 – Resolution No. 2021-15  
Attachment No. 2 – Resolution No. 2021-16  
Attachment No. 3 – Pomona Police Policy 608.4.1