

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

WHEREAS, in late 2020 the Chief of Police held several meetings with members of the Pomona Valley Branch of the NAACP regarding the use of no-knock warrants in the City of Pomona.

WHEREAS, 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 the investigator. Typically, those facts revolve around the 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.

WHEREAS, the Pomona Police Department reports that the department does not use no-knock warrants in its day to day operations, and current staff cannot recall a time when they were ever used.

WHEREAS, the Pomona Police Department adopted revisions to Police Policy #608.4.1 in December 2020 that prohibits the use of no-knock warrants by Pomona Police personnel, with limited exceptions.

WHEREAS, the policy #608.4.1 states, “A “no-knock warrant” is a search warrant authorizing police officers to enter a house without consent, and without first knocking and announcing their presence and their purpose prior to entering the house, which is generally required pursuant to Penal Code 844 and Penal Code 1531. 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 no-knock warrant service will ensure paramedics and fire personnel are pre-staged in the immediate area to provide medical aid as needed.

WHEREAS, the Police Department values life and is committed to enacting policies that reflect the needs of the community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pomona as follows:

SECTION 1. The City Council affirms the prohibition on the use of No-Knock Warrants by Pomona Police Personnel, with Limited Exceptions for the Preservation of Life as described in policy 608.4.1. The policy section *608.4.1*, which is attached hereto as Exhibit A, may only be modified or amended by resolution of the Pomona City Council.

SECTION 2. The City Clerk shall attest and certify to the passage and adoption of this Resolution, and it shall become effective immediately upon its approval.

PASSED, APPROVED AND ADOPTED this 1st day of February 2021.

CITY OF POMONA:

Tim Sandoval
Mayor

APPROVED AS TO FORM:

Sonia Carvalho
City Attorney

ATTEST:

Rosalia A. Butler, MMC
City Clerk

I, HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of Pomona at a regular meeting thereof held on February 1, 2021 by the following vote of the Council:

AYES:
NOES:
ABSTAIN:
ABSENT:

Rosalia A. Butler, MMC
City Clerk

Warrant Service

608.1 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.

608.2 POLICY

It is the policy of the Pomona 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.

608.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

608.4 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, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

608.4.1 NO KNOCK WARRANTS

A "no-knock warrant" is a search warrant authorizing police officers to enter a house without consent, and without first knocking and announcing their presence and their purpose prior to entering the house, which is generally required pursuant to Penal Code 844 and Penal Code 1531.

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

Warrant Service

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.

608.5 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 complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. 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 residence where circumstances may pose a lower risk.

608.6 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.

Warrant Service

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

608.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

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) Reasonable efforts are made during the search to maintain or restore the condition of the location.
- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy 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.

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

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Warrant Service

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

608.9 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.

608.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director 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 operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Pomona Police Department are utilized appropriately. Any concerns regarding the requested use of Pomona Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Watch Commander should assume this role.

If officers intend to serve a warrant outside Pomona Police Department jurisdiction, the operations director 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 Pomona Police Department when assisting outside agencies or serving a warrant outside Pomona Police Department jurisdiction.

608.11 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 News Media Relations Policy.

Pomona Police Department

Pomona PD Policy Manual

Warrant Service

608.12 TRAINING

The 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.