OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 16 June 19, 2020

SUBJECT: **REQUESTING APPROVAL TO SEARCH NEWS MEDIA FACILITIES – RENAMED AND REVISED**

PURPOSE: This Order amends Department Manual Section, 4/742.50, *Requesting Approval to Search News Media Facilities*, to revise procedures that will require sworn Department personnel to obtain a search warrant to search news media facilities, members of the news media, vehicles and/or electronic devices.

PROCEDURE: Department Manual Section 4/742.50, *Requesting Approval to Search News Media Facilities*, has been revised and renamed as *Search Warrants Involving News Media Facilities, Members of the News Media, News Media Vehicles and/or News Media Electronic Devices*. Attached is the revised Department Manual section with the revisions indicated in italics.

AMENDMENT: This Order amends Section 4/742.50 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

MICHEL R. MOORE
Chief of Police

Attachment

DISTRIBUTION "A"

DEPARTMENT MANUAL
VOLUME IV
Revised by Special Order No. 16, 2020

742.50 SEARCH WARRANTS INVOLVING NEWS MEDIA FACILTIES, MEMBERS OF THE NEWS MEDIA, NEWS MEDIA VEHICLES AND/OR NEWS MEDIA ELECTRONIC DEVICES.

News Media Facility – Defined. *An established facility where the primary function is the gathering of and distribution of news events.*

Members of the News Media – Defined. *As defined in Evidence Code Section 1070, a publisher, editor, reporter, or other person connected with or employed by a newspaper, magazine, or other periodical publication, or by a press association or wire service.*

News Media Vehicles – Defined. *Vehicles owned by newspapers, publications, wire-services, radio or television news services, which are operated by employees of the news media service for the purpose of gathering and distributing news events.*

News Media Electronic Storage Devices – Defined. *Electronic devices capable of storing data that are used for the purposes of documenting, recording and distributing news events and which are owned by members of the news media or agencies.*

> ***Note:*** *There is no law that protects news media facilities, members of the news media, news media vehicles or news media electronic storage devices from a legal search and seizure via a properly obtained search warrant. The "news media shield laws" often referred to include:*
>
> - *The California Constitution, Article 1, Section 2(b), which states that members of the news media, "shall not be judged in contempt by a judicial, legislative or administrative body... for refusing to disclose the source of any information procured...or refusing to disclose any unpublished information."*
> - *Evidence Code Section 1070, which further states that members of the news media, "cannot be adjudged in contempt by a judicial, legislative, administrative body... for refusing to disclose, in any proceeding...the source of any information procured...or for refusing to disclose any unpublished information."*
> - *Penal Code Section 1524(g), which states "No warrant shall be issued for any item or items described in Section 1070 of the Evidence Code."*

Responsibilities for Authoring and Serving a Search Warrant Involving News Media Facilities, Members of the News Media, News Media Vehicles and/or News Media Electronic Devices.

Officer's (Affiant's) Responsibilities. *When authoring a search warrant where the subjects to be searched are news media facilities, members of the news media, news media vehicles and/or news media electronic devices owned by or in possession of a member of the news media or agency, the Affiant shall:*

- *Clearly state that the facility to be searched serves a public news media function;*
- *Ensure that the opening statement of the Affidavit, clearly and unequivocally identifies the facility, person, vehicles and/or electronic devices named in the search warrant as being "news media-related," AND which news media agency they employ and/or are owned by. The opening statement in the affidavit shall also include language stating the Affiant is "NOT seeking any sources of information or unpublished information";*
- *Make certain the warrant is in full compliance with the California Electronic Communications Privacy Act (Section 1546.1);*
- *Include in the affidavit the reasons why consent is impractical or unavailable;*
- *Contact the District Attorney's Office or the City Attorney's Office, whichever is applicable, and request a Deputy District Attorney or Deputy City Attorney be assigned to review the search warrant. Searching officers and their agencies will generally be shielded against civil liability by "qualified immunity" when a supervisor and a prosecutor have reviewed, and a magistrate has approved, a search warrant authorizing the search; and,*
- *Write and submit an Intradepartmental Correspondence, Form 15.02.00, to the Chief of Police (COP) requesting approval to conduct the physical search of a news media facility, members of the news media, news media vehicle and/or news media electronic device.*

Approval to conduct a search of a news media facility shall be requested, with the approval of the concerned commanding officer, in the following manner:

- *Requests shall be submitted on an Intradepartmental Correspondence, Form 15.02.00, signed by the concerned bureau and office. Requests shall be hand-carried through the approval chain of command to the COP; and,*

- *When the Office of the Chief of Police is closed, emergency requests may be made through the Chief of Detectives (COD), Detective Bureau, with the approval of a staff officer from the concerned bureau. The concerned Office shall be notified on the next working day. The COD shall secure an approval or denial of the request from the COP, or Acting COP. The COD shall then advise the requesting employee of the denial or approval.*

Detective Commanding Officer's Responsibilities. *Detective Commanding Officers are responsible for the following:*

- *Ensuring all employees under their command authoring a search warrant involving a news media facility, members of the news media, news media vehicle and/or news media electronic device, adhere to the provisions of this section;*
- *Reviewing the Affiant's search warrant for required news media language and confirming that the search warrant has been reviewed by a Deputy District Attorney or Deputy City Attorney; and,*
- *Reviewing the Affiant's Intradepartmental Correspondence request for approval to conduct a search on the news media facility, members of the news media, news media vehicles and/or news media electronic devices.*

Commanding Officer's Responsibilities. *The Affiant's Commanding Officer is responsible for the following:*

- *Ensuring that all employees under their command authoring a search warrant involving a news media facility, members of the news media, news media vehicles and/or news media electronic devices, adhere to the provisions of this section;*
- *Signing the request for the approval to search; and,*
- *Ensuring the Intradepartmental Correspondence is hand-carried through the chain of command to the COP.*