

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 28

November 20, 2020

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON NOVEMBER 17, 2020

SUBJECT: SEARCH AND ARREST WARRANT SERVICE POLICY AND PROCEDURES – DEPARTMENT MANUAL SECTION ESTABLISHED; SEARCH WARRANT AND PROBABLE CAUSE ARREST WARRANT PROCEDURES – REVISED; AND, SERVICE OF HIGH-RISK WARRANTS – DELETED

PURPOSE: The service of search and arrest warrants by members of law enforcement is a matter of critical concern to both the public and the law enforcement community, as it has proven to be one of the most necessary, but high-risk functions of American law enforcement. In serving search and arrest warrants, law enforcement must respect and uphold the principles of the Fourth Amendment to the United States Constitution, which guarantee the right of people to be secure in their persons, homes, businesses, and property, and to be free from unreasonable government intrusion. It provides safeguards to individuals and prevents unreasonable searches and seizures. In addition to the Fourth Amendment, the service of search and arrest warrants is predicated upon California Penal Code (PC) Sections 844 and 1531, which require officers to “knock and announce” prior to entry.

The purpose of this Order is to establish, revise, and/or delete various Department Manual sections in order to reinforce the expectations of all Department personnel involved in the execution of search and/or probable cause arrest warrants based on the United States Constitution, established case law, and the California Penal Code.

PROCEDURE:

- I. SEARCH AND ARREST WARRANT SERVICE POLICY AND PROCEDURES – ESTABLISHED.** Department Manual Section 4/742.05, *Search and Arrest Warrant Service Policy and Procedures*, has been established. Attached is the established Manual section.
- II. SEARCH WARRANT AND PROBABLE CAUSE ARREST WARRANT PROCEDURES – REVISED.** Department Manual Section 4/742.10, *Search Warrant and Probable Cause Arrest Warrant Procedures*, has been revised. Attached is the revised Manual section with the revisions indicated in italics.
- III. SERVICE OF HIGH-RISK WARRANTS – DELETED.** Department Manual Section 4/742.20, *Service of High-Risk Warrants*, has been deleted. The content of this section has been incorporated into Department Manual Section 4/742.05.

AMENDMENT: This Order adds Section 4/742.05, amends Section 4/742.10, and deletes Section 4/742.20 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

Attachments

DISTRIBUTION "D"

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742.05 SEARCH AND ARREST WARRANT SERVICE POLICY AND PROCEDURES. *The execution of search and/or probable cause arrest warrants is one of the most necessary, but high-risk functions of American law enforcement. For the Los Angeles Police Department (Department), a reverence for human life, as well as the safety of Department personnel and members of the community shall be paramount in all warrant operations and shall not be outweighed by the need for an expeditious recovery of evidence that might be easily destroyed. Moreover, any warrant entry is a highly-intrusive law enforcement action that should never be taken lightly. For these reasons, and in compliance with California Penal Code (PC) Sections 844 and 1531, absent reasonable suspicion of exigency (as further set forth below), all warrants shall be executed following knock-notice.*

The Law Applicable to Warrants. *The execution of search and/or probable cause arrest warrants is based upon the United States Constitution, established case law, and the California Penal Code.*

The Fourth Amendment of the United States Constitution guarantees the rights of all individuals to be secure against unreasonable searches and seizures by law enforcement regardless of socio-economic status, community, or type of dwelling. Law enforcement personnel may only enter a private dwelling uninvited in limited circumstances, which include but are not limited to, a warrant or exigent circumstances.

California Penal Code Section 1531 states, "An 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 [her] authority and purpose, he [she] is refused admittance."

A judicial officer cannot provide advance authorization for an exception to the requirements of 1531 PC, and officers shall not seek a judge's approval for not providing a knock-notice at the time of a warrant's service.

California Penal Code Section 844 states in pertinent part: "To make an arrest, . . . a peace officer, may break open the door or 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."

The purpose of the knock-notice rule is (1) to protect the privacy of the household; (2) to safeguard innocent persons on the premises; (3) to prevent violent confrontations arising from unannounced entries; and, (4) to protect the police from injuries caused by a surprised or fearful householder. See People v. Murphy (2005) 37 Cal. 4th 490, 495.

Department Policy. *With the intent of averting violent encounters between law enforcement personnel and surprised occupants during these endeavors, Department policy requires officers to, absent reasonable suspicion of exigent circumstances, provide knock-notice prior to entry. Forcible entry may be made only if, after notice and a reasonable amount of time has been given, clear and articulable facts are present that the suspect(s)/occupant(s) has failed to comply or does not intend on complying with lawful commands.*

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***Note:** Notwithstanding 844 PC and 1531 PC, Department personnel should not force entry after the suspect(s)/occupant(s) refuses to comply when the warrant is for weapons, indestructible evidence or to make an arrest. Instead, in such a circumstance, containment should be established and notification should be made to Metropolitan Division for advice or declaration of a barricaded suspect where it is probable that the suspect(s)/occupant(s) is armed or has access to weapons, requiring the assistance of Special Weapons and Tactics (SWAT).*

***Department Warrant Procedure.** Officers shall knock, identify themselves, and state their authority to be admitted (e.g., "Police officers! We have a search warrant and demand entry!" or, "Police Officers! We have a valid arrest warrant!"). The suspect(s)/occupant(s) should then be given a reasonable amount of time to open the door and comply with the officers' commands. Various factors may influence the amount of time that is reasonable for the occupants to open the door and comply with the officers' knock-notice commands. Those factors may include, but are not limited to:*

- *Time of the warrant service;*
- *Size of the structure;*
- *Area surrounding the location;*
- *Security measures to purposely hinder law enforcement;*
- *Type of fortification;*
- *Strategies or knowledge of destruction measures in place;*
- *Early warning systems such as cameras, lookouts or sentries;*
- *Remoteness of the location; and/or,*
- *Type of approach needed or distance to the point of entry.*

***Exigent Circumstances.** Less than full compliance with 844 PC and 1531 PC may occur **only** if the **specific facts** known to officers before entry establish reasonable suspicion of exigent circumstances. Exigency or exigent circumstances in the context of warrant service consist of specific facts supporting a good faith belief that compliance with knock-notice, under the particular circumstances, will be dangerous to the officer(s) or inhibit the effective investigation of the crime, such as allowing for the imminent destruction of evidence.*

***Note:** The fact that a warrant involves narcotics, in and of itself, will not justify less than full compliance with knock-notice. Officers shall possess **specific facts** relating to the narcotics activity to establish reasonable suspicion of exigency allowing for entry without full compliance with 844 PC and 1531 PC.*

Any deviation from knock-notice shall only be permissible with the approval of the warrant service incident commander. Thereafter, the circumstances of the entry (establishing exigent circumstances) shall be clearly articulated in a police report about the search and, if an arrest has been made, in the corresponding Arrest Report or Follow-Up Investigation (e.g., "Upon our approach Suspect Jones exited the front door of the residence, looked in our direction and then attempted to run back inside and lock the door"). Officers shall not, however, create their own exigency.

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As with all tactical operations, numerous pieces of information and intelligence must be gathered and thoroughly evaluated before serving a warrant in order to develop the safest tactical plan and techniques that will minimize risk of injury or death to officers, as well as members of the public. This information is vital in determining the most viable and safest tactics to be used, as well as the most appropriate entity to serve the warrant. Department personnel are authorized to use the following tactics when serving a search or probable cause arrest warrant:

- ***Dynamic*** – *To be used only by SWAT, in circumstances where speed and/or the element of surprise are needed to quickly mitigate a threat. May include pyrotechnic devices, mechanical breach tools, diversionary tactics or other extraordinary measures.*
- ***Rapid Entry*** – *To be used only by properly equipped and trained specialized units or personnel, in circumstances that may also require a swift entry or defeat of security measures to prevent the complete destruction of evidence sought where there is an absence of evidence that officers will be met with a violent response. This technique may only be used after knock-notice is given and may include manual breach tools or diversionary tactics such as “break and rake.”*
- ***Surround and Call-Out*** – *To be used in cases of search warrants where the evidence sought is not easily destroyed (e.g., firearms, stolen property, or a large-scale marijuana growing operation), or for the apprehension of a known individual.*
- ***Detain and Rollback*** – *To be used if it is more feasible to take a subject into custody at a location other than their residence, in order to mitigate the risk of a violent confrontation if the dwelling affords a tactical advantage or access to weapons by the subject. In these cases officers may opt to take the suspect into custody at their workplace, public parking lot, etc.*

Screen-Down Process. *All search and probable cause arrest warrants completed by and to be served by Department personnel (apart from evidentiary searches, such as those at banks, hospitals, phone companies, etc.) shall be screened through Metropolitan Division prior to service to determine which entity is best suited to safely execute the warrant service.*

If, throughout the course of an investigation or prior to service, it is determined that Department personnel involved in the execution of a search or probable cause arrest warrant may face a confrontation with a violent suspect, superior weaponry, a heavily fortified location, etc., or are simply not adequately trained or equipped for the mission, the affiant’s supervisor shall ensure that all known factors of concern are disclosed during the warrant screen-down process. This will ensure that the SWAT supervisor completing the warrant screen-down process recommends the appropriate tactics, as well as the entity best suited to execute the warrant service (i.e., SWAT, Metropolitan Division, Gang Enforcement Detail, Narcotics Enforcement Detail or detective personnel).

Resource-driven requests shall be forwarded to Metropolitan Division for large-scale or multi-agency operations, or when resources within an Area or bureau have been exhausted and/or will negatively impact deployment.

Note: *Personnel assigned to federal or joint task forces executing the service of search*

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and/or probable cause arrest warrants shall adhere to authorized Department tactics and protocols as well as California law, and shall not participate in warrant services without knock-notice, absent exigent circumstances as listed above.

***Note:** The procedures described in this section do not apply to search warrants targeting only global positioning system (GPS) devices or third-party records (e.g., telephones, bank records, internet service providers, such as subscriber information, e-mail content, images, chat logs, and instant messaging).*

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742.10 SEARCH WARRANT AND PROBABLE CAUSE ARREST WARRANT PROCEDURES (see Department Manual Section 4/725.12). All Department personnel involved in the service (including the planning and debriefing) of a search or Ramey warrant shall comply with the instructions set forth in the *Search Warrant Service Procedures Guide* (hyperlink: <http://pdinfoweb/urldisplay.aspx?did=130711>), prepared by Investigative Analysis Section, Detective Bureau. Each commanding officer shall be responsible for maintaining the *Search Warrant Service Procedures Guide* and ensuring that such procedures are made available to Department personnel. Department personnel shall follow these guidelines when preparing, obtaining, serving, and returning a search warrant.

Note: For purposes of this section, a Ramey warrant is defined as an arrest warrant signed by a judge for the arrest of a particular subject prior to the filing of criminal charges. Upon arrest, law enforcement has 48 hours to present the case to the prosecutor for the formal filing of criminal charges.

Note: After the search warrant is executed, the completed Addendum to Return to Search Warrant shall be submitted to the court, within 10 calendar days after the date of issuance [California Penal Code (PC) Section 1534(a)]. The date of issuance is day zero (California Government Code Section 6800). If the tenth day falls on a weekend or holiday, then it shall be submitted on the next scheduled court day. If not submitted within 10 calendar days (only in rare circumstances), check the second box within Roman Numeral III, under the Additional heading, within the *Tactical Operation Plan Checklist*, Form 12.25.01, and provide a brief explanation.

Department personnel obtaining a search or Ramey warrant shall:

- Review the investigation with his or her immediate supervisor;
- Consult with an on-duty investigative supervisor from the investigative entity responsible for the follow-up investigation;
- When the officer's supervisor agrees that a search or Ramey warrant is the next appropriate step, complete the warrant affidavit and supporting documentation, and submit these documents to his or her supervisor for review and approval;
- Upon obtaining a search or Ramey warrant issued by a magistrate, complete all of the required information on the Warrant Tracking Log, Form 08.17.05;

Note: In the event an officer's work location is different from his/her commanding officer's (CO) location, the officer shall cause all required information to be entered on their Area/division's Warrant Tracking Log.

- Complete pages 1- 6 of the *Tactical Operation Plan*, Form 12.25.00, submit it for approval;
- Refer to the *Tactical Operation Plan Checklist*, Form 12.25.01, as a guide only, since the Warrant Review Officer is the only authorized supervisor who shall complete this form after the execution of the search warrant; and,

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- Complete the search or Ramey warrant and other related documents including the completed *Tactical Operation Plan*; Property Report Form 10.01.00; Receipt for Property Taken Into Custody Form 10.10.00; and Addendum to Return to Search Warrant (Search Warrant Return) and maintain them in the warrant package (in the Detective Case Package, Control Folder, or Murder Book, as applicable).

Note: When information such as the Division of Records number, case number, search warrant number, or booking number is not available, that information shall be entered on the Log as soon as it becomes available.

Note: When a Ramey warrant is not served, the officer who obtained the warrant shall comply with Department Manual Section 4/725.12 regarding Probable Cause Arrest Warrants.

Supervisor's Responsibilities. The concerned supervisor shall place his or her initials and serial number on the lower right hand corner of each page of the original copy of the affidavit, indicating that he or she has thoroughly reviewed the document. Supervisors are reminded that every page *shall* be reviewed and initialed in order to document a thorough review.

Exception: When a supervisor reviews a search warrant via e-mail due to the affiant being in another County and returns the corrected and reviewed warrant via e-mail, the reply e-mail will constitute a "signature" by the supervisor. After a judge has signed the warrant and it has been served, the same supervisor shall initial each page of the warrant as otherwise required by this section.

The concerned supervisor shall also review the affidavit to determine if a *Tactical Operation Plan* is required and if a supervisor's presence at the warrant service is recommended or required. (*A supervisor shall be present for all warrant services that require a Tactical Operation Plan.*)

Exceptions: A *Tactical Operation Plan* or Employee's Report is not required for search warrants targeting only global positioning system (GPS) devices *or* third-party records (e.g., telephones, bank records, internet service providers, such as subscriber information, e-mail content, images, chat logs, instant messaging, etc.). An entry in the Warrant Tracking Log shall be completed, specifically stating "GPS installation only" or "records warrant only" respectively, in the comment box. Also, a *Tactical Operation Plan* or an Employee's Report, is not required for search warrants served at secure locations (e.g., police facilities, jail facilities, prisons, Official Police Garages, crime scenes requiring a Mincey Warrant, etc.) including warrants involving body cavity searches, deoxyribonucleic acid (DNA), blood, urine, saliva, or other bodily fluids. When determining the security of the warrant service location, and the location is other than a secure facility, the supervisor shall take into account the possibility of the arrival of any suspects, accomplices, or other persons related to the crime. Should the supervisor feel prudent measures are required, the *Tactical Operation Plan* shall be completed. Should the supervisor determine that a *Tactical Operation Plan* is

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unnecessary, he or she shall complete an Employee's Report, articulating the facts in determining the security of the warrant service location. This Employee's Report shall be approved and signed by the Area/specialized division CO and included in the search warrant package. Should exigent circumstances exist that require immediate approval of the Employee's Report, the CO's designee or the Area/specialized division watch commander may do so.

A Tactical Operation Plan is not required for warrants served *pursuant to a spontaneous incident or tactical operation, such as a barricaded suspect*. Officers obtaining a search or Ramey warrant to be served by an outside agency or a Forward Looking Infrared (FLIR) warrant (e.g., narcotics investigations) to be served by Air Support Division need not complete a *Tactical Operation Plan*.

Note: The supervisor initialing the search warrant and/or *Tactical Operation Plan* for approval shall not be the same as the affiant.

Supervisors are reminded that, should a warrant service require a *Tactical Operation Plan* and should the service of the warrant involve multiple locations, a separate *Tactical Operation Plan* shall be completed for each location.

A supervisor shall be present for all warrants that require a *Tactical Operation Plan*. If a warrant service does not require a *Tactical Operation Plan*, the presence of a supervisor is not required. However, a supervisor's presence is recommended if such a warrant service is anticipated to yield a significant amount of narcotics or currency. In addition to guidelines established in Department Manual Sections 4/742.10 and 4/742.30, supervisors overseeing a warrant service shall review the Area/division Warrant Tracking Log to ensure that the concerned warrant is entered and properly updated, and that the return date box is completed.

Note: A supervisor may refer to the *Tactical Operation Plan* Checklist, Form 12.25.01, as a guide, since the Warrant Review Officer is the only authorized supervisor who shall complete this form after the execution of the search warrant.

Tactical Operation Plan. Prior to the warrant service, the designated supervisor shall review and determine if a *Tactical Operation Plan* is required. If the *Tactical Operation Plan* is required, the supervisor shall follow the guidelines established in the Department's E-Forms, Form Use link, in reference to the *Tactical Operation Plan*.

The reviewing supervisor shall also ensure that a thorough risk assessment is conducted to address tactics in regards to the scope, ability, equipment, and training levels of those involved, as well as disclose any concerns to Metropolitan Division during the warrant screen-down process (see Department Manual Section 4/742.05).

Exception: When a Department supervisor determines that a *Tactical Operation Plan* is not required and does not meet the requirements listed within the exceptions above, the

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supervisor shall complete an Employee's Report, Form 15.07.00, addressed to his or her commanding officer, indicating the following:

- Date and time of entry into a location;
- Method of entry into a location;
- Condition of the location prior to the officers' entry into the location and when the officers exited the location;
- Pre and post-search warrant photographs;
- Any injury or damage as a result of police action taken during the search warrant; and,
- Identification of the involved employees and the officer in charge at the scene of the search warrant.

Following the warrant service, the on-scene supervisor shall review the overall service, as well as the *Tactical Operation Plan*, and provide the following:

- A summary of pre-search condition and post search conditions (Page 6);
- Whether the supervisor was present throughout the entire search;
- Whether the assigned supervisor ensured all involved personnel received a proper briefing prior to the service;
- Whether the supervisor ensured the proper documentation of any currency or valuables discovered during the search;
- Whether the supervisor ensured that the following was left at a conspicuous place at each warrant service location:
 - Search Warrant and Affidavit - Face Sheet Only. When the warrant is for multiple locations, information regarding locations not presently being served at the current specific location shall be redacted from documentation left at scene, so as not to reveal the full scope of an investigation to potential suspects; and,
 - Department business card with pertinent contact information.

Exception: As necessary, the supervisor may provide additional warrant pages that describe a person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched.

Note: If officers conduct a search pursuant to a federal search warrant, officers *are required* to leave a copy of the face sheet of the search warrant along with Attachment A [Description of Property to be Searched (Location)] and Attachment B (Description of Property to be Seized) in a conspicuous place at the location. *Officers shall refer to Federal Rule of Criminal Procedures Rule 41(f)(1)(c) for additional information, and/or call the Assistant United States Attorney listed on the face sheet of the warrant.*

Note: As a reminder, the reviewing supervisor **shall** place his or her initials and serial number on the lower right hand corner of each page of the original affidavit.

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- Documented confirmation that a debriefing with involved personnel was conducted no later than the next working day after warrant service; and,
- A summary of the debriefing no later than the next working day after warrant service.

The “Debriefing Summary” section shall, at a minimum, address the following issues:

- *Compliance with 1531 PC or factors that resulted in a deviation;*
- Presence/absence of digital or hard copy photographs, audio, and/or video recordings;
- Supervisory oversight before, during, and after service of the warrant; and,
- Date, time, and location of the debriefing, issues discussed, and any training needs that were identified.

Note: If the supervisor at scene is the same as the warrant affiant, he or she shall not complete the debriefing summary.

Notifications and Screen-Down Process. Prior to the service of the warrant, the designated supervisor shall ensure that the following notifications are made:

- Metropolitan Division [*all search and probable cause arrest warrants completed by and to be served by Department personnel (apart from evidentiary searches, such as those at banks, hospitals, phone companies, etc.) shall be screened through Metropolitan Division prior to service to determine which entity is best suited to safely execute the warrant service*];
- The on-duty watch commander of the Area where the warrant is being served;
- Mental Evaluation Unit, detective Support and Vice Division, for a query regarding the history of calls for service at the location; and,
- Any outside law enforcement agency having jurisdiction over the location where the warrant is being served.

Commanding Officer's Responsibilities. The commanding officer of each Area/specialized division (or designated Area detective's CO at the rank of lieutenant or above) shall ensure that his or her command is in compliance with Department policy and procedure as it relates to search and Ramey warrant service and:

- Review and approve the *Tactical Operation Plan* within 14 calendar days after the date of service;
- Maintain a single location for the Warrant Tracking Logs for his or her command in the Area detectives or specialized division office;
- Ensure the presence of the affiant at the service of a FLIR warrant;
- Ensure the presence of a supervisor (Sergeant I, Detective II, or higher), if necessary, during the execution of a search or Ramey warrant;

Note: The presence of a lieutenant or above is required for search or Ramey warrants initiated by any uniformed gang enforcement-related specialized detail or any warrants where uniformed gang enforcement officers act as affiants. However, a lieutenant or

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above is not required for warrants using uniformed gang enforcement personnel in a support capacity only, e.g., gang enforcement personnel in support roles may only be within the perimeter of a search warrant and may not be part of an entry team nor enter the location. Additionally, a supervisor need not be present for the service of a FLIR warrant.

- Ensure that the warrant number and return date are entered on the Warrant Tracking Log no later than ten business days from the date of service, with the exception of third-party records warrants;

Note: The return date may not be available to be entered into the return date box of the final printout of the Warrant Tracking Log if the warrant was served on or near the end of the month. Should this be the case, the investigating officer shall print the return date on the original printout signed by the CO and shall ensure that this date matches the date entered into the DCTS. The Warrant Tracking Log shall not be reprinted. The commanding officer shall initial and date the return dates (that were later added to the Warrant Tracking Log). The monthly printout of the Warrant Tracking Log shall still be submitted to the CO for his or her signature, despite the missing return date. When the warrant is returned, the investigating officer shall retrieve the original signed Warrant Tracking Log and print the return date where applicable. The commanding officer must acknowledge the updated information by initialing and dating by the added return date.

- Ensure that the warrant number is recorded on both the Warrant Tracking Log and the first page of the *Tactical Operation Plan*;
- Sign and date the bottom of the final printout of the Warrant Tracking Log, at the completion of each month; and,
- Complete an analysis of the performance of the supervisor providing supervisory oversight (designated supervisor) at the service of a search warrant and document the results on an Employee Comment Sheet.

Note: Neither the original, nor a copy of the Employee Comment Sheet shall be placed inside the warrant package. The original Employee Comment Sheet shall be placed inside the concerned employee's divisional personnel folder or unit administrative office.

The Employee Comment Sheet must be completed within seven business days of the warrants execution and include the following information:

- Identity of the designated supervisor assigned (e.g., name, rank, and serial number);
- Warrant location;
- Date and time of service;
- Whether the supervisor's actions during the service of the warrant were appropriate;
- Evaluation of the performance of the designated supervisor(s) at each warrant location; and,
- Any other information deemed by the commanding officer to be pertinent to the designated supervisor's performance.

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Note: As a reminder, commanding officers are required to sign and date the completed Employee Comment Sheet.

The Area/specialized division CO, Area patrol CO, detective officer in charge, or their respective designee (of supervisory rank or above) shall designate a Warrant Review Officer (WRO) and ensure that the WRO conducts a timely review of all warrant documentation.

Warrant Review Officer. All Areas/specialized divisions responsible for the service of search and arrest warrants shall designate a WRO in accordance with the guidelines established in this section. The WRO shall be the rank of Sergeant I, Detective II, or higher and shall conduct a final quality assurance review for completeness and accuracy of all warrant documentation. This review shall include:

- The initiation of a search *Tactical Operation Plan* Checklist, Form 12.25.01, to be completed only by a WRO after the execution and completion of the search warrant, and placed into the Search Warrant Package;
- The required notation is included in the *Tactical Operation Plan* indicating that the concerned CO's review and approval was performed within 14 calendar days after the warrant service;
- The Warrant Tracking Log entry is complete and accurate;
- The Property Report and the Receipt for Property Taken Into Custody forms match; and,
- Any errors, inaccuracies, or omissions within the search warrant package are promptly corrected prior to proper storage.