

Task Force on Issuing Search Warrants

Meeting Agenda

Wednesday, June 9, 2021

1:00 p.m. to 3:00 p.m.

State Courts Building * 1501 West Washington * Phoenix, AZ

This is a Virtual Meeting

Telephone: **877-853-5247**, Access Code: **913 0743 3041**

Item no. 1	Call to Order Introductory remarks	<i>Hon. Clint Bolick</i>
Item no. 2	Approval of the May 14, 2021 meeting minutes (action item)	<i>Justice Bolick</i>
Item no. 3	Consideration of locally available search warrant data	<i>Commissioner Zabor Chief Cost</i>
Item no. 4	Discussion of potential consensus items regarding adequate safeguards	<i>All</i>
Item no. 5	Roadmap <ul style="list-style-type: none">• Identification of items and issues for the third meeting• Next meeting date: To be confirmed	<i>All Justice Bolick</i>
Item no. 6	Call to the Public Adjourn	<i>Justice Bolick</i>

The Chair may call items on this Agenda, including the Call to the Public, out of the indicated order.

Please contact Mark Meltzer at (602) 452-3242 with any questions concerning this Agenda.

Persons with a disability may request reasonable accommodations by contacting Angela Pennington at (602) 452-3547. Please make requests as early as possible to allow time to arrange accommodations.

Task Force on Issuing Search Warrants

State Courts Building, Phoenix

Meeting Minutes: May 14, 2021

Members attending: Hon. Clint Bolick (Chair), Hon. Christopher Browning by his proxy Hon. Casey McGinley, Christina Cabanillas, Hon. Suzanne Cohen, Chief Ken Cost, Hon. Jill Davis, Hon. Karl Eppich, Anita Escobedo, Darrell Hill, Jerry Landau, Professor Sylvia Lett, Major George Manera, Armando Nava, Abril Ruiz Ortega, Professor Kevin Robinson, Primitivo Romero, Benjamin Taylor, Kent Volkmer. Hon. Melissa Zabor (all members present)

Guests: John Thomas, Liana Garcia, Elise Kulik, Aaron Nash, Regina Ponder, Daniella Lertzman

AOC staff: Mark Meltzer, Angela Pennington, Theresa Barrett

1. Call to Order; welcome from the Chief Justice. The Chair called the first meeting of the Task Force on Issuing Search Warrants (“ISW”) to order at 10:00 a.m.

Chief Justice Robert Brutinel gave welcoming remarks that underscored the importance of ISW’s work. The Chief Justice observed that no-knock search warrants, which will be ISW’s primary focus, are fraught with peril. When events go awry, outcomes can be tragic. To help assure the safety of both officers and the public, the Chief Justice requested ISW’s recommendations concerning the factors magistrates should expect applications for no-knock warrants to address. Although eliminating no-knock warrants in their entirety would require substantive legislation, the Court could adopt procedural rules that would codify meaningful requirements for those warrants. An early proposal was that an application for a no-knock warrant be approved by a command level officer, and the Task Force might consider that suggestion. The Chief Justice thanked members for their service, and he looks forward to their recommendations.

2. Member introductions; administrative issues; remarks from the Chair. Following those welcoming remarks, the Chair introduced himself and asked members and guests to introduce themselves. The Chair noted that ISW meetings are recorded and are open to the public.

The Chair then reviewed Administrative Order No. 2021-34, which established the Task Force. He noted language in the Order that requires ISW to make recommendations “to assure that there are adequate safeguards” in the issuance of no-knock and nighttime warrants. The recommendations may propose amendments to court rules or statutes, including amendments that provide “new or modified criteria or standards” for the issuance of these warrants. These recommendations should also address the adequacy

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of judicial officer training on these subjects. ISW must submit its report and recommendations to the Arizona Judicial Council (“AJC”)—which assists the Court in developing its policies and is chaired by the Chief Justice—by October 21, 2021. If the AJC approves recommendations for Court rules, the recommendations will be followed by a petition requesting those rule amendments. The AJC’s approved recommendations for statutory changes will be referred to the legislative group at the Administrative Office of the Courts (“AOC”).

A packet of materials for today’s meeting included a one-page document titled “Rules for Conducting Task Force Business.” These rules specified the number of members needed for a quorum and incorporated the subjects of Task Force decision-making, the use of proxies, and a call to the public.

Motion: A member moved to approve the Rules for Conducting Business. The motion received a second and it passed unanimously. **ISW 001**

The Chair then addressed the members. He noted that considerable work in the Arizona court system is done by committees whose members are volunteers. He expressed his gratitude to ISW members for contributing their diverse backgrounds and expertise and their service in this endeavor. He believes members probably would agree that the status quo could be improved and accordingly, they should be able to propose tangible recommendations. The Chair then reviewed the facts of a search warrant served at the Tucson residence of Jose Guerena a decade ago, during which Mr. Guerena was killed by law enforcement gunfire and that resulted in a subsequent multi-million-dollar civil settlement. The Chair asked whether additional legal requirements could have prevented Mr. Guerena’s death, or whether such requirements might prevent other tragedies when warrants are issued in the future.

The Chair observed that legislative enactments create, define, and regulate the rights of citizens. Pursuant to that power, Arizona’s legislature has enacted substantive criminal law, including laws regulating law enforcement officers. Arizona’s Supreme Court has the authority to apply and interpret those laws. Under the Arizona Constitution, the Court also has authority to promulgate procedural rules for enforcing substantive rights and seeking redress. The Chair asked members to be mindful of the distinctions between substance and procedure during their discussions. In turn, he will monitor the members’ proposals to help ensure that those requiring legislation and those that require rules adhere to their respective constitutional boundaries. He added that the content of ISW meetings will be determined by the ideas, experiences, and suggestions that members share during their discussions. He asked members to voice their needs for further research on any topic, or the desirability of inviting stakeholders to address the Task Force at a future meeting.

The Chair concluded with preliminary questions that members might consider during their discussions later today. A.R.S. § 13-3915(B) provides in part that a magistrate “shall authorize an unannounced entry” if the application makes a “reasonable showing” that an announced entry would endanger any person’s safety or would result in the destruction of items described in the warrant. Does “reasonable showing” have a distinct legal meaning? And if the application makes a reasonable showing, does the word “shall” mean that the magistrate has no discretion to decline the no-knock request? In comparison, A.R.S. § 13-3917 explicitly provides that a magistrate “may, in his discretion” issue a nighttime warrant “upon a showing of good cause.” Are “reasonable showing” and “good cause” synonymous? Would magistrates benefit from clarification of these terms?

The Chair then asked Ms. Cabanillas, who is an experienced instructor on the subject of search and seizure, to review applicable law and practical considerations concerning no-knock and nighttime search warrants.

3. Presentation by Ms. Cabanillas on the law of no-knock and nighttime search warrants. Historically, the law required officers serving a search warrant to knock and announce their presence prior to entering a residence. Ms. Cabanillas reviewed the evolution of that principle during the past 50 years. She explained the holdings in several United States Supreme Court cases, including *Wilson v. Arkansas* (1995), *Richards v. Wisconsin* (1997), *United States v. Banks* (2003), and *Hudson v. Michigan* (2006). She also reviewed a federal statute, 18 U.S.C. § 3109, Art. II, § 8 of the Arizona constitution and pertinent Title 13 statutes, and several Arizona cases, including *State v. Cohen* (1998) and *State v. Roberson* (2010). In summary, there now are multiple justifications for a forcible entry: judicial pre-authorization of a no-knock entry; knocking and forcibly entering after getting no response within a reasonable time; knocking and being refused admittance; or circumstances involving danger or exigency. See further A.R.S. § 13-3916(B), which codifies these scenarios.

Nighttime warrants, like no-knock warrants, are intended to mitigate confrontations; both require a higher showing than other types of search warrants. The Arizona standard for issuing a nighttime warrant is “good cause.” There is limited authority on what that means, other than how the standard is applied in individual cases. Older Arizona case law approved nighttime warrants, for example, when drugs were being sold “at all hours of the day and night” but not based on an allegation that “drug sales often occur at night” without a specific showing of a nighttime sale. Some nighttime warrants concern searches of persons or vehicles and don’t involve a residence. She further noted that federal authority defining “daytime” is in a court rule, whereas in Arizona “night” is defined by statute. See further section 5 of these minutes, at page 8.

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Although the lynchpin of forcible entry is whether it is reasonable, Ms. Cabanillas concluded that statutes and rules can only go so far in establishing what is reasonable. Case law can be significant in ascertaining reasonableness. The standards in this area are general and vague for good reasons, including the application of those standards to a broad range of circumstances and the associated need for flexibility, and to meet the practical needs of law enforcement officers.

The Chair thanked Ms. Cabanillas for her presentation. He observed that ISW cannot rewrite the Fourth Amendment, but it can propose rules or statutory amendments that are more specific or limiting, provided those enactments do not fall below the requirements of federal law. With that, he invited Mr. Landau, the AOC's senior consultant for legislative affairs, and Mr. Volkmer, the Pinal County Attorney, to discuss a bill introduced during the 2021 Arizona legislative session concerning no knock warrants.

4. Presentation by Mr. Landau and Mr. Volkmer on HB 2751. Mr. Landau explained that HB 2751 was sponsored by Representative Alma Hernandez and had several co-sponsors. The bill proposed amendments to A.R.S. Title 13, Chapter 38, Article 8 concerning search warrants. The original bill would have repealed current provisions that allow a magistrate to authorize an unannounced entry and replaced them with provisions requiring a uniformed officer to provide audible notice of the officer's authority and purpose before entry. A subsequent amendment reinstated the current provision allowing an unannounced entry and added eight factors that would permit a magistrate to authorize an unannounced entry. (The first seven factors were the underlying charges, weapons information, gang activity, fortification of the structure, documented violence potential of the suspect or occupants, documented violence potential or calls for service at the address, and a detective's first-hand knowledge of the suspects or target location. The eighth factor was a catchall: "any other factor which a magistrate may consider relevant.") The amended bill also would have required a no-knock warrant, if authorized, to be executed by a special weapons and tactics team ("SWAT"), if practicable. The bill was retained by the Committee of the Whole, and no further action was taken, i.e., the bill died.

Mr. Volkmer further explained that the HB 2751 was informally referred to as the Breonna Taylor bill. The proposed amendments were the result of stakeholder input, but further stakeholder discussion of those amendments led to additional issues such as the following:

- What constitutes a uniformed police officer? Is a SWAT officer dressed in black or camouflage, albeit with police lettering, in a uniform?
- How would these provisions apply in a rural jurisdiction that has a small police force and no SWAT team?

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- The proposed amendment that said, “shall be executed by” a SWAT member was ambiguous. Did it mean that the application should be signed by that member, or that the warrant should be served by that member?

Mr. Volkmer noted the challenge of identifying specific factors that would justify a no-knock entry, and that a checklist format, or assigning point values for each factor, would likely be unworkable. Some stakeholders believed that magistrates should be able to use their common sense when determining if a rational basis exists for authorizing a no-knock warrant, and that HB 2751 would lead to increased litigation. Stakeholders anticipated doing further work on this bill during the summer months, but that work was deferred upon learning of the establishment of ISW and pending stakeholder review of ISW’s recommendations.

During the ensuing discussion, members observed that although A.R.S § 13-3915 authorizes a no-knock entry to prevent the destruction of evidence, in practice that often is not a basis for the request. Rather, an exception to the no-knock requirement is usually requested for the safety of officers and civilians. Because safety is of prime importance, the requesting officer frequently attempts to gather intelligence about who might be occupying the premises where the search will occur. The intelligence inquiry might consider the presence of children, elderly and incapacitated persons, any occupant who might be on probation, and even pets. If, for example, there are concerns with child occupants, officers might attempt service of the warrant during school hours, when the children are more likely to be out of the home. In some circumstances, officers upon entry provide occupants an opportunity to immediately exit the residence (a “breach and hold”), which could avoid the necessity of a dynamic and confrontational intrusion. One officer member emphasized that his unit customarily evaluates alternative ways it can execute a warrant, and then determines which way would best mitigate dangers to officers and civilians.

Mr. Landau and Mr. Volkmer were asked about the recently enacted Maryland legislation that was included in the meeting materials. The Maryland act is lengthy and prescriptive, and they conjectured that in some respects, it might unduly hinder the process of requesting and executing a no-knock warrant. Mr. Landau added that a list of factors in a statute is rarely exhaustive, and when a statute does contain a list, the list frequently includes the phrase, “including but not limited to ...” This language avoids the dilemma of omitting a factor that might be reasonable and appropriate in some situations.

5. Further discussion of the members’ experiences, concerns, and ideas. The afternoon session of the meeting included a discussion of issues and suggestions for improving the status quo. The Chair began the discussion by asking for comments on these issues:

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- Notwithstanding the word “shall” in A.R.S § 13-3915, should a magistrate have discretion to issue a no-knock warrant when the application makes a “reasonable showing?”
- Are “reasonable showing” and “good cause” appropriate standards? Are they equivalent?
- Are the eight factors enumerated in the HB 2751 amendments useful?
- Should a no-knock request require the approval of a command level officer or a prosecutor?

On that last item, members were generally opposed to a requirement that a prosecutor sign a no-knock request. Prosecutors occasionally review warrant requests and provide guidance to the requesting officer, but they don’t sign the applications. A member from a rural county was concerned that a prosecutor might be a considerable distance away, which might impede the process of obtaining a warrant. Another member expressed concern that the requirement could complicate the prosecutor’s ability to argue the validity of the warrant. The member, however, supported the concept of approval by a law enforcement supervisor.

A judicial officer member from Maricopa County reported that the local superior court receives about 24,000 search warrant applications annually. These applications cover a range of searches and seizures, including the taking of blood or DNA samples, or searches of cell phones and computers. Most applications are presented to that court electronically, and a magistrate has the opportunity to call the requesting officer, if necessary. The process of electronic submission has the advantage of uniformity in the application template. Emergency warrant requests go to the top of the court’s queue. The member advised that the court only tracks a limited amount of data concerning these thousands of requests. It does not track whether applications request no-knock or nighttime exemptions. Mr. Landau’s informal survey found few no-knock requests. Research by Professor Robinson, a former assistant police chief, indicated that fewer than a dozen no-knock warrants were served by the Phoenix Police Department over a period of several years. However, another member located an article in a 2013 issue of the *Arizona Daily Star* that found an increasing number of no-knock requests in Tucson during specified years. An officer member opined that the dearth of up-to-date and reliable no-knock data in Arizona might reflect the current rarity of those warrants.

A member then reiterated that no-knock warrants were primarily requested for safety reasons, including, for example, hostage situations or searches related to homicides or significant injuries to officers or others. The member believed that no-knock requests to prevent evidence destruction typically arose in the context of a violent or other serious crime, including child pornography cases or major narcotics investigations. Another

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member would be interested in the relative number of no-knock requests based on safety issues versus destruction of evidence; the member believes that a significant number of warrants currently issued in drug cases are no-knock due to concerns about evidence being destroyed. One member suggested that in drug cases, a request based on destruction of the evidence should require fact-specific rather than generic allegations. The Chair observed that the Maryland legislation requires data concerning no-knock requests and thought that tracking similar data in Arizona might be a meaningful ISW recommendation. He also posed whether applications in drug cases should have different requirements than applications for non-drug offenses.

Members considered requirements for judicial training specified in the Arizona Code of Judicial Administration § 1-302(I). A member reiterated the idea of the magistrate asking questions of an officer requesting a no-knock or nighttime warrant; if it isn't already, the member proposed that this topic be included in judicial training. A further discussion ensued about the content of a warrant application; isn't the legal sufficiency of an application determined by what's contained in its "four corners?" Members generally believed that necessary information in support of a no-knock exception should appear within the four corners of the application rather than information the officer supplies to a magistrate during a conversation. (The Maryland legislation requires the application to include, among other items, "an explanation of the investigative activities that have been undertaken and the information that has been gathered to support the request for a no-knock search warrant" and "an explanation of why the affiant is unable to ... search the premises using other, less invasive methods.")

Regarding the use of the word "shall" in A.R.S § 13-3915, several members expressed a preference for replacing it with "may." That is, even if an application made a "reasonable showing," the magistrate should still have discretion to decline a no-knock request. Members also discussed the "any other factor" phrase in the amendments to HB 2751. Those who favored the phrase believed that it would allow an officer to include in the application any information the officer thought the magistrate should know, regardless of whether it was pertinent to the specified factors, and that the first seven enumerated factors were not exclusive. Others thought this eighth catchall factor was too broad. One member believed that the eighth factor could open the door for a magistrate filling in gaps in the officer's application rather than evaluating what the application expressly says. Another member thought the process of issuing a no-knock warrant should not involve determining whether specific factors exist, which could become a hyper technical exercise, but rather whether the request is reasonable based on the facts presented.

On the subject of nighttime warrants, a member observed that these warrants don't necessarily involve the danger element that's inherent in a no-knock warrant.

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Nevertheless, and similar to the discussion regarding no-knock, a member suggested that a request for a nighttime warrant should provide a reason why it would be safer to execute the warrant at night than during daytime, or that it provide another factually specific rationale for nighttime service. A.R.S § 13-3917 defines “night” as 10 p.m. to 6:30 a.m. Rule 41 of the Federal Rules of Criminal Procedure defines “daytime” as 6 a.m. to 10 p.m. The Maryland act requires execution of a no-knock warrant, absent exigent circumstances, between 8 a.m. and 7 p.m.

6. **Roadmap.** Members expressed interest in reviewing Arizona data concerning search warrants. (A public member also inquired about demographic data in these cases.) A couple members volunteered to look for data within their respective organizations, although they anticipated that the number of data elements might be limited, and that demographic data was probably unavailable.

The Chair proposed dates for the second Task Force meeting. Following discussion, the Chair set the next meeting for the afternoon of Wednesday, June 9, 2021. The second meeting will be virtual. The third and fourth meetings are tentatively set for the afternoons of Friday, July 16 and Friday, August 13.

7. **Call to the Public; Adjourn.** The Chair made a call to the public. Mr. John Thomas, on behalf of the Arizona Association of Chiefs of Police, and Ms. Regina Ponder, on behalf of the National Coalition of 100 Black Women, Phoenix Chapter, responded to the call and addressed the members.

The meeting adjourned at 1:56 p.m.

https://tucson.com/news/blogs/police-beat/controversial-no-knock-warrants-common-in-tucson/article_18ec66ee-fcb6-5fb7-866a-239d9b9ec63e.html

WEB ONLY

Controversial 'no-knock' warrants common in Tucson

By Britain Eakin For the Arizona Daily Star
Sep 13, 2014



David Ortiz, left, an officer with the Tucson Police Department, got chin-scooped by Officer Pete Galvan, a fellow instructor, during a training demo at the Southern Arizona Law Enforcement Training Center on June 24.

Photos by Kelly Presnell / Arizona Daily Star

By Britain Eakin For the Arizona Daily Star

SWAT teams were designed to diffuse dangerous hostage situations and respond to mass shootings — but in the Tucson area, more than half of what they do is serve drug-related search warrants.

That shift in duties has come under increasing scrutiny, especially the use of “no-knock warrants” that give masked SWAT team members permission to burst into a home without first knocking and announcing their presence. The warrants, which bypass a long-established constitutional requirement that officers identify themselves before entering a home, are allowed under only two conditions — if a judge determines that knocking could pose a risk to the safety of officers or is likely to give suspects an opportunity to destroy evidence.

The Pima County Sheriff's Department doesn't use no-knock warrants at all, but the Tucson Police Department has increased the use of them significantly over the past decade.

From mid-2001 through mid-2004, less than 2 percent of the search warrants TPD's SWAT team used were no-knock warrants. But from mid-2012 through mid-2013, that number soared to about 75 percent, TPD SWAT incident reports analyzed by the Arizona Daily Star show. SWAT teams serve only a small fraction of the search warrants judges grant each year.

But just because a judge grants TPD permission to rush into a home unannounced, that doesn't mean its SWAT team will actually do that, said Capt. **J.T. Turner**, commander of TPD's specialized response division.

Often, officers will breach the door of a suspect's house without first knocking and announcing their presence, but then stay outside and yell for the occupants to come out, Turner said. From that point, if officers believe a suspect is destroying evidence they can run in quickly, but if not, they can stay outside and wait, he said.

“The TPD SWAT team is very conservative in our use of unannounced ‘no-knock’ dynamic entries into residences due to the obvious, inherent risks of that type of entry,” he said. “There are cases where this is justified and appropriate, but these are the exception and not the rule.”

The SWAT team is now using more of these “breach and hold” entries than breaking in the door and running inside with weapons ready, he said.

Whether officers break through a door and hold back or break through a door and push inside, both are aggressive techniques that can ramp up already tense situations and increase the chance of a violent confrontation, critics say.

“These are paramilitary raids in people’s homes,” said Kara Dansky, senior counsel for the American Civil Liberties Union’s Center for Justice and the lead author of a recent ACLU report critical of SWAT tactics. “That’s not what policing is supposed to be about.”

THE DANGERS OF NO-KNOCKS

Serving a no-knock warrant comes with an inherent risk.

“You really have to take a critical look at all the pieces of the puzzle and make a determination, and a lot of times it’s a judgement call,” Turner said. “Is it going to be safe for me just to send a couple of detectives up to the door with no support, no ballistic protection and no special tools, or should we err on the side of caution and be more prepared?”

The forceful nature of a no-knock warrant can be safer for everyone, Tosca said. The idea is to overwhelm suspects “so they don’t have the ability to react and get to a weapon or destroy evidence,” he said. “It’s not to scare people. It’s to make it safer for both them and the officers serving the warrant.”

Peter Kraska, a professor at Eastern Kentucky University’s School of Justice Studies who has studied policing practices, said his research doesn’t support that claim.

“When you compare the extreme nature of the approach, it just doesn’t make any sense to say that we’re doing this under the auspices of safety,” Kraska said. “They can provide — I promise you — very little evidence that these are hardened, barricaded-in, drug kingpins that are waiting at the door ready to fire at them.”

Occupants of a house where a no-knock warrant is being served can think their home is being invaded when heavily armed officers arrive in an armored vehicle, sometimes late at night.

And if they pick up a weapon in response, fear can turn to violence, he said.

“Walking up in a private residence with 15 officers and throwing concussion grenades, let’s say at 4 o’clock in the morning when people are in the middle of rapid-eye-movement sleep, is incredibly dangerous,” Kraska said.

There are other dangers, too. In May, a 19-month-old Georgia toddler was seriously injured by a flashbang device, which produces noise, smoke and heat, and creates a bright light intended to disorient and confuse occupants of a home where a no-knock warrant is being served.

SWAT officers threw one of the devices into a house where the boy and his family were staying during a no-knock drug raid. It landed in his crib and exploded in his face. The toddler, Bounkham Phonesavanh, was hospitalized for five weeks. SWAT officers were looking for the boy’s cousin, Wanis Thonetheva, a suspected meth dealer who they believed was armed. Thonetheva wasn’t home at the time.

When he was found and arrested later that morning, he had an ounce of meth, but wasn’t armed.

The Pima County Sheriff’s Department SWAT team has cut back on using flashbang devices because they are so disorienting, both to officers and to the public, Pima County Sheriff’s Department SWAT chief **Christopher M. Radtke** said.

TPD uses flashbang devices on about half the no-knock warrants they serve.

An on-site commander might choose to use one to distract and disorient a house’s occupants and give officers a safety advantage, Turner said.

Tucson police officers refrain from using the devices when they know children are present, former TPD SWAT commander Lt. **Paul Tosca** said.

“If it’s possible, we would rather call everybody out to us instead of using distraction devices like sometimes we do,” Tosca said. “We don’t want to have that surprise as much, where the children could be traumatized.”

SOME AGENCIES SHUN USE

No-knock tactics are mostly used for narcotics-related search warrants because drugs can be quickly flushed down a toilet and those involved in drug trafficking are sometimes heavily armed.

Other factors go into deciding whether to use a no-knock warrant: whether a suspect has a history of substance abuse or emotional instability, or lives in a house that is heavily fortified or equipped with counter-surveillance that would let residents see police approaching.

But even if those conditions are met, some agencies shy away from no-knock tactics. When Pima County Sheriff's deputies serve a search warrant, they knock and announce their presence, or surround the house and wait for the occupants to come outside.

"I've been doing this for 38 years, and I have never, ever seen or done a no-knock warrant," Chief Deputy **Chris Nanos** said.

He doesn't criticize TPD for using the tactic. It's a tool the sheriff's department doesn't want to exclude, he said.

Still, sheriff's officials feel avoiding no-knock warrants is safer both for their officers and for the public.

"Your intel is not always correct that there are not infants, that there are not children in the house," Radtke said.

Even though the U.S. Supreme Court has given officers permission to use no-knock warrants, "it still doesn't relieve you of the responsibility to know that one's home is one's sanctity," Nanos said. "Even if we have a warrant, it's just a matter of constitutional law 101 that says when you get into someone's home, you are really invading their privacy."

But even when SWAT teams knock and announce their presence before entering a home, things can go wrong.

In May 2011, the sheriff's department's SWAT team shot and killed former Marine **Jose Guerena** while attempting to serve a drug-related search warrant at his home.

Guerena's wife has said she woke her husband after she saw a man with a gun outside their window and after the SWAT team deployed a flashbang device. Believing intruders were breaking into their home, Guerena instructed his wife and their 4-year-old son to hide in a closet while he grabbed an AR-15 rifle.

Although the safety was still on Guerena's weapon, SWAT officers saw the weapon when they entered his home and fired about 70 rounds at him. Medical examiners recovered 22 bullets from his body.

The sheriff's office has learned from its mistakes, Pima County Sheriff's Department SWAT Capt. **Michael Sacco** said. "Every call, every warrant, gets debriefed by the SWAT team and their commander," he said. "And they are painfully frank and open about what did or didn't happen."

But the Guerena case and others like it have led no-knock critics like Kraska to question the justification for using such aggressive tactics to serve drug-related search warrants, whether "knock and announce" or no-knock warrants are used.

"Is this extreme, Navy SEALs approach of policing an intelligent, safe, decent way to police in a democratic society?" Kraska said.

To him and the ACLU's Dansky, the answer is no. And there's a lot at stake, they said, in getting that answer right.

"If people aren't being treated fairly by the police," Dansky said, "that undermines public trust and, ultimately, public safety."

Tucson Police SWAT responses

SWAT Deployments from July 2, 2012 to June 27, 2013: 161

- Total warrants: 104

- No-knock warrants: 77

- Flash-bang devices used: 73

Source: Tucson Police Department, Star research

SWAT deployments from July 18, 2001 to May 27, 2004: 346

- Total warrants: 202

- No-knock warrants: 3

- Flash-bang devices used: 185

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Verified agency cases for evidence lost in surround and call, also known as knock and announce search warrants. The agencies were asked initially for any child crime or sex crime related cases. More requests from agencies throughout the state are pending to include violent crimes other than sex or child crimes.

1 Tempe Police Departmental Report 2015-135971	Detectives were investigating a child sexual exploitation case. A pilot began wiping hard drive on his laptop while Special Weapons and Tactics (SWAT) was attempting to serve the search warrant.	Surround and call warrant execution
2 Tempe Police Departmental Report 2016-25721	A suspect began destroying evidence and physically inserted an iPhone into his anus. After being released he was observed removing it and factory resetting the device. He took an extended amount of time to exit the residence while being called out by SWAT on a search warrant.	Surround and call warrant execution
3 2016-25721	The same suspect from 2016-25721 (included above) later cut off his ankle monitor and fled the state.	
4 Tempe Police Departmental Report 2018-83950	Detectives were investigating a child sexual exploitation and child molestation case. This investigation involved numerous suspects including one for production and a hands-on offense. A suspect destroyed evidence and police later served a no-knock warrant after he destroyed electronic evidence remotely.	Surround and call warrant execution
5 Tempe Police Departmental Report 2019-83755	Detectives were investigating a child sexual exploitation case. The suspect snapped a phone in half while SWAT was calling the residents out during the execution of a search warrant.	Surround and call warrant execution
6 Arizona Attorney General's Office Departmental Report 2021-0153	Special Agents were investigating a sexual exploitation of a minor. A previously convicted suspect was awaiting sentencing. While waiting he attempted to meet a child to commit more child sex crimes. Officers executed a search warrant by knocking and announcing. After about 2 minutes they were able to locate the suspect inside the residence. The suspect was able to fold the phone in half breaking the evidence. The device that was destroyed match the cyber tip reports.	Surround and call warrant execution
7 Arizona Attorney General's Office Departmental Report 2019-0067	Special Agents were investigating a Registered Sex Offender (RSO) who was attempting to purchase a toddler aged boy for sex during an undercover human trafficking operation. During the execution of a search warrant the suspect was able to conceal electronic evidence. Fortunately, a citizen was able to locate and provide that evidence to police at a later date.	Surround and call warrant execution

IA Court Statistics: Search Warrants

Category	13-Jul	13-Aug	13-Sep	13-Oct	13-Nov	13-Dec	14-Jan	14-Feb
Search Warrants Requested	1115	1220	1020	1187	889	899	986	988
Search Warrants Issued (fax or walk-in)	1009	1086	829	1055	746	847	917	939
Search Warrants Not Issued (fax or walk-in)	60	59	139	63	64	52	69	49
eSearch Warrants Requested	46	75	52	69	79	181	112	130
eSearch Warrants Issued	46	75	52	69	79	181	112	130
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	1055	1161	881	1124	825	1028	1029	1069
Total Search & eSearch Warrants Requested	1115	1220	1020	1187	889	1080	1098	1118
Returns signed (walk-in)	687	736	665	802	600	575	738	595
eReturns signed	0	0	0	0	64	180	106	134
Total Returns & eReturns signed	687	736	665	802	664	755	844	730

IA Court Statistics: Search Warrants

Category	14-Mar	14-Apr	14-May	14-Jun	14-Jul	14-Aug	14-Sep	14-Oct
Search Warrants Requested	1123	1157	945	913	1064	995	948	961
Search Warrants Issued (fax or walk-in)	893	950	900	851	958	910	880	900
Search Warrants Not Issued (fax or walk-in)	76	59	45	62	106	85	68	61
eSearch Warrants Requested	149	147	166	152	160	218	177	172
eSearch Warrants Issued	149	147	166	152	160	218	177	172
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	1042	1098	1066	1003	1118	1128	1057	1072
Total Search & eSearch Warrants Requested	1118	1156	1111	1065	1224	1213	1125	1133
Returns signed (walk-in)	786	629	789	640	635	632	741	689
eReturns signed	146	149	164	153	156	211	170	172
Total Returns & eReturns signed	632	778	953	793	791	843	911	861

IA Court Statistics: Search Warrants

Category	14-Nov	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun
Search Warrants Requested	825	850	938	945	1002	1083	966	874
Search Warrants Issued (fax or walk-in)	749	773	839	858	904	974	879	901
Search Warrants Not Issued (fax or walk-in)	76	77	99	87	98	109	87	73
eSearch Warrants Requested	207	272	199	166	231	236	227	149
eSearch Warrants Issued	207	272	199	166	231	236	227	149
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	956	1045	1038	1024	1135	1210	1106	1050
Total Search & eSearch Warrants Requested	1032	1122	1137	1111	1233	1319	1193	1123
Returns signed (walk-in)	513	604	552	559	548	674	594	552
eReturns signed	213	254	195	164	226	227	219	145
Total Returns & eReturns signed	726	858	747	723	774	901	813	697

IA Court Statistics: Search Warrants

Category	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb
Search Warrants Requested	1107	1099	998	993	793	818	951	1046
Search Warrants Issued (fax or walk-in)	1001	1012	907	896	716	746	869	952
Search Warrants Not Issued (fax or walk-in)	106	87	91	97	77	72	82	94
eSearch Warrants Requested	171	140	216	183	189	251	238	199
eSearch Warrants Issued	171	140	216	183	189	251	238	199
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	1172	1152	1123	1079	905	997	1107	1151
Total Search & eSearch Warrants Requested	1278	1239	1214	1176	982	1069	1189	1245
Returns signed (walk-in)	830	709	621	653	454	543	519	655
eReturns signed	172	136	211	180	176	242	231	199
Total Returns & eReturns signed	1002	845	832	833	630	785	750	854

IA Court Statistics: Search Warrants

Category	16-Mar	16-Apr	16-May	16-Jun	16-Jul	Aug-16	Sep-16	Oct-16
Search Warrants Requested	1076	1040	1085	1080	937	1123	1045	1040
Search Warrants Issued (fax or walk-in)	991	962	972	1020	874	1075	981	976
Search Warrants Not Issued (fax or walk-in)	85	78	113	60	63	83	64	64
eSearch Warrants Requested	206	199	290	249	300	230	283	285
eSearch Warrants Issued	206	199	290	249	300	230	283	285
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	1197	1161	1262	1269	1174	1305	1264	1261
Total Search & eSearch Warrants Requested	1282	1239	1375	1329	1237	1353	1328	1325
Returns signed (walk-in)	670	704	707	901	600	753	706	733
eReturns signed	203	193	279	233	295	221	275	275
Total Returns & eReturns signed	873	897	986	1134	895	974	981	1008

IA Court Statistics: Search Warrants

Category	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17
Search Warrants Requested	955	844	1075	959	1144	1134	1217	1064
Search Warrants Issued (fax or walk-in)	907	799	997	898	1067	1034	1137	992
Search Warrants Not Issued (fax or walk-in)	48	45	78	61	77	100	80	72
eSearch Warrants Requested	277	402	336	349	394	399	413	418
eSearch Warrants Issued	277	402	336	349	394	399	413	418
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	1184	1201	1333	1247	1461	1433	1550	1410
Total Search & eSearch Warrants Requested	1232	1246	1411	1308	1538	1533	1630	1482
Returns signed (walk-in)	652	597	610	611	754	684	749	717
eReturns signed	268	383	336	340	390	389	407	405
Total Returns & eReturns signed	920	980	946	951	1144	1073	1156	1122

IA Court Statistics: Search Warrants

Category	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18
Search Warrants Requested	1056	1192	964	1125	937	904	1256	1026
Search Warrants Issued (fax or walk-in)	994	1069	894	1040	861	834	1145	941
Search Warrants Not Issued (fax or walk-in)	62	123	70	85	76	70	111	85
eSearch Warrants Requested	428	417	485	414	418	554	371	397
eSearch Warrants Issued	428	417	485	414	410	554	371	397
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	1422	1486	1379	1454	1271	1388	1522	1338
Total Search & eSearch Warrants Requested	1484	1609	1449	1539	1355	1458	1627	1423
Returns signed (walk-in)	690	770	623	694	656	634	714	748
eReturns signed	414	402	472	401	400	506	369	387
Total Returns & eReturns signed	1104	1172	1095	1095	1056	1140	1083	1135

IA Court Statistics: Search Warrants

Category	Mar-18	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18
Search Warrants Requested	1171	1094	1200	1115	1137	1285	1074	1140
Search Warrants Issued (fax or walk-in)	1107	1007	1130	1015	1013	1186	960	1049
Search Warrants Not Issued (fax or walk-in)	64	87	70	100	124	99	114	91
eSearch Warrants Requested	447	396	423	397	463	459	532	481
eSearch Warrants Issued	447	396	423	397	463	459	532	481
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	0
Total Search & eSearch Warrants Issued	1554	1403	1553	1412	1476	1645	1492	1530
Total Search & eSearch Warrants Requested	1618	1490	1623	1512	1600	1744	1413	1359
Returns signed (walk-in)	761	754	895	768	811	1046	838	877
eReturns signed	440	367	413	386	446	430	509	461
Total Returns & eReturns signed	1201	1121	1308	1154	1257	1476	1347	1338

IA Court Statistics: Search Warrants

Category	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
Search Warrants Requested	995	980	1442	1202	1228	1311	1304	1184
Search Warrants Issued (fax or walk-in)	910	903	1326	1104	1150	1234	1211	1112
Search Warrants Not Issued (fax or walk-in)	85	77	116	98	78	77	93	72
eSearch Warrants Requested	517	644	504	525	611	614	702	721
eSearch Warrants Issued	517	644	504	525	611	614	702	692
eSearch Warrants Not Issued*	0	0	0	0	0	0	0	29
Total Search & eSearch Warrants Issued	1427	1547	1830	1629	1761	1848	1913	1804
Total Search & eSearch Warrants Requested	1205	1210	1621	1392	1839	1925	2006	1905
Returns signed (walk-in)	798	816	823	865	839	986	1016	949
eReturns signed	507	628	492	507	600	595	688	673
Total Returns & eReturns signed	1305	1444	1315	1372	1439	1581	1704	1622

IA Court Statistics: Search Warrants

Category	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20
Search Warrants Requested	1338	1451	1331	1417	1060	1089	1324	1370
Search Warrants Issued (fax or walk-in)	1274	1363	1268	1278	1024	1045	1262	1310
Search Warrants Not Issued (fax or walk-in)	64	88	56	139	36	44	62	60
eSearch Warrants Requested	660	767	728	647	736	817	666	698
eSearch Warrants Issued	630	751	701	625	716	791	642	669
eSearch Warrants Not Issued*	30	16	27	22	20	26	24	29
Total Search & eSearch Warrants Issued	1904	2114	1969	1903	1740	1836	1884	1979
Total Search & eSearch Warrants Requested	1998	2218	2059	2064	1796	1906	1990	2068
Returns signed (walk-in)	965	1057	957	997	911	883	820	950
eReturns signed	622	719	689	608	688	770	622	656
Total Returns & eReturns signed	1587	1776	1646	1605	1599	1653	1442	1606

IA Court Statistics: Search Warrants

Category	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20
Search Warrants Requested	1421	1689	1469	1253	1567	1477	1561	1526
Search Warrants Issued (fax or walk-in)	1355	1620	1416	1204	1511	1424	1479	1481
Search Warrants Not Issued (fax or walk-in)	66	69	53	49	56	53	82	45
eSearch Warrants Requested	577	489	768	637	637	818	807	773
eSearch Warrants Issued	556	477	752	622	620	793	778	741
eSearch Warrants Not Issued*	21	12	16	15	17	25	26	32
Total Search & eSearch Warrants Issued	1911	2097	2168	1826	2131	2217	2257	2222
Total Search & eSearch Warrants Requested	1998	2178	2237	1890	2204	2295	2368	2299
Returns signed (walk-in)	1073	1334	1204	933	1226	1309	1254	1288
eReturns signed	543	455	728	619	596	768	743	699
Total Returns & eReturns signed	1616	1789	1932	1552	1822	2077	1997	1987

IA Court Statistics: Search Warrants

Category	FY18 Monthly Avg.							
	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	
Search Warrants Requested	1177	1084	1284	1338	1609	1374	1355	1087
Search Warrants Issued (fax or walk-in)	1130	1024	1240	1287	1493	1282	1270	1003
Search Warrants Not Issued (fax or walk-in)	47	60	44	51	116	92	85	84
eSearch Warrants Requested	715	877	781	673	798	861	931	429
eSearch Warrants Issued	697	864	754	652	777	838	910	428
eSearch Warrants Not Issued*	18	13	27	21	21	23	21	0
Total Search & eSearch Warrants Issued	1791	1888	1994	1939	2270	2120	2180	1432
Total Search & eSearch Warrants Requested	1892	1961	2065	2011	2407	2235	2286	1516
Returns signed (walk-in)	947	1044	1034	1045	1188	1066	991	726
eReturns signed	661	847	720	633	747	797	871	413
Total Returns & eReturns signed	1608	1891	1754	1678	1935	1863	1862	1139

IA Court Statistics: Search Warrants

Category	FY19 Monthly Avg.	FY20 Monthly Avg.	FY21 Monthly Avg.	% Change (2021-2020)	% Change (Current Month-FY20 Average)	FY19 Total	FY20 Total	FY21 Total
Search Warrants Requested	1190	1351	1396	-20%	0%	15397	20,817	15,352
Search Warrants Issued (fax or walk-in)	1097	1285	1329	-22%	-1%	14173	19,833	14,621
Search Warrants Not Issued (fax or walk-in)	94	66	66	23%	30%	1224	977	731
eSearch Warrants Requested	564	683	788	90%	36%	7170	10,452	8,671
eSearch Warrants Issued	562	661	766	91%	38%	7141	10,123	8,424
eSearch Warrants Not Issued*	2	22	22	75%	-2%	29	326	244
Total Search & eSearch Warrants Issued	1659	1944	2092	4%	12%	21314	29,936	23,009
Total Search & eSearch Warrants Requested	1602	2034	2184	5%	12%	20731	31,269	24,023
Returns signed (walk-in)	889	1007	1127	-26%	-2%	11432	15,873	12,392
eReturns signed	545	643	735	91%	35%	6922	9,826	8,082
Total Returns & eReturns signed	1433	1650	1861	15%	13%	18354	25,699	20,474

IA Court Statistics: Search Warrants (Paper Data)

Category	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	FY20 Monthly Avg.	FY21 Monthly Avg.
Search Warrants Requested	1370	1421	1689	1469	1253	1567	1477	1561	1526	1177	1084	1284	1338	1609	1374	1355	1351	1396
Search Warrants Issued (fax or walk-in)	1310	1355	1620	1416	1204	1511	1424	1479	1481	1130	1024	1240	1287	1493	1282	1270	1285	1329
Search Warrants Not Issued (fax or walk-in)	60	66	69	53	49	56	53	82	45	47	60	44	51	116	92	85	66	66
eSearch Warrants Requested	698	577	489	768	637	637	818	807	773	715	877	781	673	798	861	931	683	788
eSearch Warrants Issued	669	556	477	752	622	620	793	778	741	697	864	754	652	777	838	910	661	766
eSearch Warrants Not Issued*	29	21	12	16	15	17	25	26	32	18	13	27	21	21	23	21	22	22
Total Search & eSearch Warrants Issued	1979	1911	2097	2168	1826	2131	2217	2257	2222	1791	1888	1994	1939	2270	2120	2180	1944	2092
Total Search & eSearch Warrants Requested	2068	1998	2178	2237	1890	2204	2295	2368	2299	1892	1961	2065	2011	2407	2235	2286	2034	2184
Returns signed (walk-in)	950	1073	1334	1204	933	1226	1309	1254	1288	947	1044	1034	1045	1188	1066	991	1007	1127
eReturns signed	656	543	455	728	619	596	768	743	699	661	847	720	633	747	797	871	643	735
Total Returns & eReturns signed	1606	1616	1789	1932	1552	1822	2077	1997	1987	1608	1891	1754	1678	1935	1863	1862	1650	1861

e-Warrant Data

	e-DUI SW	e-PPT SW
Total	40,631	2,453
Nighttime	24,693	829
Percent	60.77%	33.79%
No Knock	N/A	40
Percent	N/A	1.63%

REQUEST FOR EXPEDITED REVIEW OF SEARCH WARRANT OR COURT ORDER

For the following reasons it is requested that the attached affidavit be reviewed as expeditiously as possible. (Check all that apply)

- This request is related to a homicide investigation that is currently and actively being pursued.
- This request is related to an officer involved shooting investigation that is currently and actively being pursued.
- Numerous law enforcement officers are standing by and are unable to proceed further or return to service until this request has been reviewed and acted upon.
- Public right of ways have been closed and cannot be opened until this matter has been resolved.
- Persons have been displaced from their homes or other structures and cannot be allowed to return until this matter has been resolved.
- Other as listed below.

Signature of requesting supervisor: _____

Contact phone number of supervisor: _____

**MARICOPA COUNTY SUPERIOR COURT JURISDICTION
SPECIAL WARRANT**

ISSUANCE of Special Warrant at (Initial Appearance Court)

SPECIAL WARRANT NUMBER:	SW 2021 - 006836
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AFFIANT NAME:		BADGE NUMBER:
AGENCY:		TIME:

INDICATE TYPE OF ISSUANCE (ISW)

<input type="checkbox"/>	WALK-IN
<input type="checkbox"/>	FAX/ELECTRONIC

CAPTION:

<input type="checkbox"/>	IN RE THE MATTER OF SEARCH WARRANT (951)
<input type="checkbox"/>	IN RE THE MATTER OF PEN REGISTER/TRAP AND TRACE (952)
<input type="checkbox"/>	IN RE THE MATTER OF ORDER FOR ELECTRONIC COMMUNICATIONS DATA RECORDS (956)
<input type="checkbox"/>	IN RE THE MATTER OF TRACKING DEVICE SEARCH WARRANT FOR A COMMUNICATIONS DEVICE (954)
<input type="checkbox"/>	IN RE THE MATTER OF CELL SITE SIMULATOR DEVICE SEARCH WARRANT (955)
<input type="checkbox"/>	IN RE THE MATTER OF TRACKING DEVICE SEARCH WARRANT FOR A VEHICLE (958)
<input type="checkbox"/>	IN RE THE MATTER OF ORDER TO OBTAIN PHYSICAL EVIDENCE OR PHYSICAL CHARACTERISTICS (959)
<input type="checkbox"/>	IN RE THE MATTER OF (957)

ORDERED BY THE COURT:

<input type="checkbox"/>	SEAL ALL SEARCH WARRANT DOCUMENTS PER REQUEST OF OFFICER/STATE AS ORDERED BY THE COURT.
<input type="checkbox"/>	SEAL ALL ISSUANCE DOCUMENTS PURSUANT TO A.R.S. 13-3918.

IT IS FURTHER ORDERED THAT ALL WORKSHEETS IN THIS CASE ARE NOT TO BE SEALED UNLESS SPECIFICALLY ORDERED BY THE COURT.

DATE	TIME	Hours	JUDGE OR JUDGE PRO TEM
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Please forward these documents immediately to the following address:
Clerk of Superior Court, Special Warrant Desk
175 W. Madison St., ECC/RCC 4th Floor; Telephone: (602) 506-7754
Issuance Worksheet Form LRD 09/21/17

MARICOPA COUNTY SUPERIOR COURT JURISDICTION SPECIAL WARRANT

ISSUANCE of Special Warrant at (Initial Appearance Court)

SPECIAL WARRANT NUMBER:	SW 2021 - 006836
--------------------------------	-------------------------

AFFIANT NAME:		BADGE NUMBER:
AGENCY:		TIME:

INDICATE TYPE OF ISSUANCE (ISW)	
	WALK-IN
	FAX/ELECTRONIC

CAPTION:	
	IN RE THE MATTER OF SEARCH WARRANT (951)
	IN RE THE MATTER OF PEN REGISTER/TRAP AND TRACE (952)
	IN RE THE MATTER OF ORDER FOR ELECTRONIC COMMUNICATIONS DATA RECORDS (956)
	IN RE THE MATTER OF TRACKING DEVICE SEARCH WARRANT FOR A COMMUNICATIONS DEVICE (954)
	IN RE THE MATTER OF CELL SITE SIMULATOR DEVICE SEARCH WARRANT (955)
	IN RE THE MATTER OF TRACKING DEVICE SEARCH WARRANT FOR A VEHICLE (958)
	IN RE THE MATTER OF ORDER TO OBTAIN PHYSICAL EVIDENCE OR PHYSICAL CHARACTERISTICS (959)
	IN RE THE MATTER OF (957)

Nighttime

No Knock

ORDERED BY THE COURT:	
	SEAL ALL SEARCH WARRANT DOCUMENTS PER REQUEST OF OFFICER/STATE AS ORDERED BY THE COURT.
	SEAL ALL ISSUANCE DOCUMENTS PURSUANT TO A.R.S. 13-3918.

IT IS FURTHER ORDERED THAT ALL WORKSHEETS IN THIS CASE ARE NOT TO BE SEALED UNLESS SPECIFICALLY ORDERED BY THE COURT.

DATE	TIME	JUDGE OR JUDGE PRO TEM
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Please forward these documents immediately to the following address:
 Clerk of Superior Court, Special Warrant Desk
 175 W. Madison St., ECC/RCC 4th Floor; Telephone: (602) 506-7754
 Issuance Worksheet Form LRD 09/21/17

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
	SW Numbe	Issuing Judge	Issue Dat	Rec Tim	Iss Tim	Sei	Typ	Agency	Affiant Last Nam	Badge	Categor	Comment	Officer Contac	Issued
1	2021-000001	NADZIEJA	1/1/2021	2:58AM				SURPRISE	JENLEN	2192	FAX		602-622-0425	NOT ISSUED
2	2021-000002	GNEPPER	1/1/2021	6:04AM	06:08AM	NO	SW	MCSO	SEDLACEK	1413	FAX		602-989-3530	
3	2021-000003	GNEPPER	1/1/2021	09:06AM	10:00AM	NO	SW	MCSO	FRIDAY	17334	FAX		602-206-1772	
4	2021-000004	GNEPPER	1/1/2021	09:18AM	10:09AM	NO	SW	DPS	LEE	10262	FAX		602-551-7926	

Potential consensus items.

	<u>Generally.</u>
1.	When presented with an application for a no-knock or nighttime search warrant, a magistrate’s primary consideration should be whether authorizing an unannounced entry or nighttime service will enhance the safety of officers and civilians.
2.	Whether a magistrate should authorize a no-knock or nighttime search warrant to prevent destruction of evidence is a secondary consideration that the magistrate must weigh against safety.
3.	A magistrate should have discretion on whether to issue a no-knock or nighttime search warrant. Issuance should not be mandatory.
4.	An application for a no-knock or nighttime search warrant must include reliable, fact-specific information.
	<u>Unannounced (“no-knock”) entry.</u>
5.	An application for an unannounced entry must include an explanation of the agency’s investigative activities and information the agency has gathered that specifically support the request for a no-knock entry. [See further the Maryland legislation, at page 23 of the ISW May 14 meeting packet.]
6.	An application for a no-knock search warrant should address, to the extent possible, the identity or characteristics of the occupants of the place to be searched. (E.g., the number of occupants, criminal records, ages, disabilities, children, pets, etc.)
7.	An application for a no-knock search warrant should address applicable safety factors. “History” as used in factors (d), (e), and (f) is not limited to conviction of a criminal offense. Safety factors include: (a) The nature of the underlying charges that the items sought in the search warrant would support.

	<p>(b) Weapons that the requesting agency reasonably believes are at the place to be searched.</p> <p>(c) Gang or group affiliations of the occupants.</p> <p>(d) Any history of violence of any occupant.</p> <p>(e) Actual threats of violence, or a history of violence, against a law enforcement officer by any occupant.</p> <p>(f) Any occupant's history of violating A.R.S. Title 13, Chapter 24 ("obstruction of public administration") or Chapter 25 ("escape and related offenses").</p> <p>(g) Particular characteristics of the exterior or interior of the place to be searched, such as the presence of gates, locks, alarms, explosives, fortifications or booby traps, or other dangerous conditions.</p> <p>(h) The number and nature of calls for law enforcement service at the place to be searched.</p> <p>(i) The presence at the place to be searched of a hostage or any persons held against their will.</p> <p>(j) Whether any occupant of the place to be searched is experiencing a mental health crisis;</p> <p>(k) Reasons why less invasive methods would be unavailing.</p> <p>(l) Any other relevant information.</p>
<p>8.</p>	<p>The factors specified in number 7 are not exhaustive. The magistrate's decision to issue a no-knock warrant should be based on an overall showing of good and sufficient reasons.</p>

9.	An application based in part on a danger of evidence destruction should describe such evidence and explain why imminent destruction of the evidence is possible or likely absent an unannounced entry.
	<u>Nighttime service.</u>
10.	An application for nighttime service of a search warrant should explain why daytime service would not be reasonable or feasible.
11.	Question: Should any of the foregoing requirements (e.g., numbers 1 through 4 and 10) exempt applications in DUI cases requesting a blood draw, where warrants are frequently served at night and blood alcohol evidence is evanescent? (Also, is officer or civilian safety a factor when serving a search warrant to take blood?)
	<u>Approval.</u>
12.	An application for a no-knock entry or nighttime service must show that the application has been approved by an attorney advisor, a command level officer, or the highest-level officer supervisor who is available, or indicate why such approval was not requested or obtained. The application must identify the approving attorney or officer and the approving officer's rank.
	<u>Data.</u>
13.	Search warrant application forms should be modified to allow tracking of no-knock and nighttime warrants.