



### SWORN PERSONNEL SHALL UNDERSTAND THE PROVISIONS OF THE POLICY MANUAL PERTAINING TO WARRANT SERVICE.

Sworn personnel must have a complete understanding of Sheriff's Office policy regarding warrant service. Sworn personnel shall be familiar with the policy and what it contains. Sheriff's Office Policy Manual Policy 606 establishes the Sheriff's Office policy regarding warrant service. The following are excerpts from that policy. All affected personnel must be familiar with the entire Policy as stated in the Sheriff's Office Policy Manual.

### POLICY

It is the policy of the San Mateo County Sheriff's Office to balance the safety needs of the public, the safety of Office members, privacy interests and other relevant factors when making decisions related to the service of search and arrest

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Sheriff's Search and Rescue



### FROM THE TRAINING MANAGER

In the month of May, the Sheriff's Office will be participating in Wildfire Evacuation training for deputies, sergeants, and command staff. CAL FIRE, San Mateo County Fire Department, Coastside Fire District, San Mateo County Sheriff's Office, and the San Mateo County Department of Emergency Management have teamed up to host a three-hour Wildfire Evacuation training for local fire and law enforcement personnel. This training will review wildfire safety, law enforcement and fire command roles, the evacuation process, tactical considerations, Zonehaven and large animal evacuation requirements.

As summer approaches, fire season will once again be upon us. We are dedicated to preparing now, in advance of any mutual aid fire related operations in our region and beyond.

- Sgt. Jason Leone

## CODE OF ETHICS

**AS A LAW ENFORCEMENT OFFICER**, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

**I WILL** keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

**I WILL** never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

**I RECOGNIZE** the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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warrants. This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol deputies.

### SEARCH WARRANTS

Deputies should receive authorization

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Christina Corpus, Sheriff

Sergeant Jason Leone, Training Manager

Lance Bayer, Editor

For further information, please contact the Training Unit at [Sheriffs\\_TrainingUnit@smcgov.org](mailto:Sheriffs_TrainingUnit@smcgov.org)

from a supervisor before preparing a search warrant application. Once authorization is received, the deputy will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. They will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor for review and classification of risk.

### ARREST WARRANTS

If a deputy reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the deputy should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk.

If the warrant is classified as high risk, service will be coordinated by the field supervisor. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest

against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

### WARRANT PREPARATION

A deputy who prepares a warrant should ensure the documentation in support of the warrant contains, as applicable:

- ✓ Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.
- ✓ A clear explanation of the affiant's training, experience and relevant education.
- ✓ Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- ✓ A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- ✓ Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- ✓ A specific description of the location to be searched, including photographs of the location, if reasonably available.
- ✓ A sufficient description of the items to be seized.
- ✓ Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

### HIGH-RISK WARRANT SERVICE

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

The member responsible for directing the service should ensure the following, as applicable:

- ✓ When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- ✓ The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- ✓ Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- ✓ Reasonable efforts are made during the search to maintain or restore the condition of the location.
- ✓ Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- ✓ Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- ✓ A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

- ✓ A copy of the search warrant is left at the location.
- ✓ The condition of the property is documented with video recording or photographs after the search.

#### DETENTIONS DURING WARRANT SERVICE

Deputies must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, deputies must be mindful that only reasonable force may be used and weapons should be displayed no longer than the deputy reasonably believes is necessary (see the Use of Force Policy).

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

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

#### OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The field supervisor will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- ✓ Identity of team members
- ✓ Roles and responsibilities
- ✓ Familiarity with equipment
- ✓ Rules of engagement

- ✓ Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the field supervisor. The supervisor should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The supervisor should ensure that members of the San Mateo County Sheriff's Office are utilized appropriately. Any concerns regarding the requested use of San Mateo County Sheriff's Office members should be brought to the attention of the Sheriff or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance. If the field supervisor is unavailable, the watch commander should assume this role.

If deputies intend to serve a warrant outside San Mateo County Sheriff's Office jurisdiction, the field supervisor should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Deputies will remain subject to the policies of the San Mateo County Sheriff's Office when assisting outside agencies or serving a warrant outside San Mateo County Sheriff's Office jurisdiction. ☆

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#### **AN AMPUTEE WHO BALANCED ON HIS REMAINING LEG AND LUNGED AT THE VICTIM WAS GUILTY OF ASSAULT WITH A DEADLY WEAPON.**

A man was eating a meal on the patio of a fast food restaurant. The man was homeless. He used a wheelchair due to the loss of his left leg.

While at the restaurant, the man created a disturbance. He was yelling and was disturbing customers. Soon, the restaurant's operations manager and restaurant leader became aware of the man's conduct and called 911. Soon, Sheriff's

## MISSION STATEMENT

The San Mateo County Sheriff's Office is dedicated to protecting lives and property and is committed to providing the highest level of professional law enforcement and correctional services. We pledge to promote public trust through fair and impartial policing and will treat all persons with dignity, compassion, and respect.

### COMMITMENT

We are committed to protecting life and property and preserving the public peace by acting professionally, with integrity, and without prejudice, even in the most challenging circumstances, when no one is watching, and on and off duty. We hold others accountable to the same standards and challenge any inappropriate behavior.

### INTEGRITY

We are committed to ethics, equity, and excellence. We understand that making a difference in the quality of life is an opportunity that policing and correctional services provides. We provide excellent service by respecting and upholding the rights and freedoms of all people in all our interactions, free from bias or stereotype, seeking to understand and help others by making a difference.

### COMPASSION

We understand that sometimes we interact with the community during their most trying times. We are committed to treating all people with compassion, empathy, and respect; going the extra mile to ensure others feel safe, supported, included, engaged, and valued; standing up for those who cannot stand up for themselves; and valuing others' life experiences.

### INNOVATION

We promote an environment that encourages continuous improvement and innovation. We strive to be leaders in modern policing, acting on input and feedback from our communities and colleagues; constantly implementing best-practices; and exploring alternative solutions to current issues.

deputies arrived. They told the man to finish his meal and leave.

A few minutes later, the restaurant manager and leader came outside and saw the man on the ground. He was lying on his back, but was still in his wheelchair. It appeared that the wheelchair had fallen straight backwards. When the two restaurant officials tried to contact the man, he was unresponsive. The officials called for help.

Soon, Fire Department and Sheriff's Office personnel responded. They tried to wake the man, first by yelling at him. When there was no response, the Fire personnel began to kick the man, which jolted him awake. The man was able to get back into his wheelchair without difficulty. The deputies told the man that he could remain there to finish his meal if he ate without further disturbance.

The man began eating again, but soon became belligerent. He was shouting "f\*\*k you" and other profanities at customers. When the

two restaurant officials approached the man's table to check on his welfare, he turned his anger towards them.

The man began bouncing up and down in his wheelchair in order to gain enough leverage to stand up on his right leg. In order to stand, the man placed his left hand on the table to steady himself. At some point, the man held a knife in his right hand. The knife was a foldable buck knife with a blade that was four or five inches long. The man had the blade open and pointed at the two restaurant officials. The man began to look at the two while lunging and sideswiping at them with the knife. He was saying, "I'm going to f\*\*king kill you," and "I'm going to stab you." At one point, the man stood within one or two feet of the two, with the tip of the blade less than a foot from one of them. That individual backed up. He believed that he would have been stabbed if he hadn't backed away. The two restaurant officials and six

*See "Assault" continued on page 6*

restaurant patrons who observed the attack fled to the restaurant. Once inside, someone called 911.

In the case of People v. Webb, the California Court of Appeal ruled that there was sufficient evidence to support the man’s conviction of assault with a deadly weapon.

In its written decision, the Court first stated, “The crime of assault with a deadly weapon under section 245(a)(1) requires proof of an assault. In far from simple English, California law has since 1850 defined assault as ‘an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.’ (§ 240.) This ‘present ability’ requirement distinguishes California assault law from its common law counterpart. In California, to constitute an assault, the defendant must not only intend to commit a battery, he must also have the present ability to do so. Perhaps the most common example illustrating this distinction involves unloaded firearms or toy guns. There can be no present ability to commit an assault with an unloaded gun (unless it is used as a club or bludgeon).”

The Court then looked at previous case law and stated, “To sum up the analysis to this point, [a previous appeals court case] held that a defendant has a present ability to commit a violent injury where he or she attains the means and location to do so, even if additional steps remain to be taken. Courts typically apply that rule to a defendant who is several steps away from committing a battery. But [that previous case] further clarified that surrounding circumstances or steps taken by the victim to avoid injury do not negate a defendant’s present ability. For example, in [another prior appeals court case], the defendant was presently able to inflict injury when he raised a hatchet seven or eight feet away from the victim intending to strike her, even though she escaped by running into another room and locking the door. As a variation on this theme, external circum-

stances like bulletproof glass might make injury impossible but do not negate present ability where the defendant acquires the means and position to inflict injury and launches the attack.”

The Court noted that [the man] was equipped to commit a violent felony when he held a knife a few feet away from the victim with the blade open. The Court then stated, “. . . In the abstract, we have no difficulty agreeing that a defendant’s physical limitations may affect the distance he objectively can traverse—and in turn whether he came within striking distance of the victim for purposes of finding a present ability. This might be a different case if [the man] did not have his wheelchair right behind him or if [the victims] were positioned some significant distance away (there being no indication [the man] intended to throw his knife). The positioning of the table might also affect his radius of mobility while balancing on one leg. But on our record, this case is not close and we need not decide exactly where the line must be drawn. According to [the victim], [the man] stabilized himself at the table in front of him and lunged at the two managers with his knife as they stood less than three feet away. His swinging motion was almost like a side swipe—coming from the side and going forward. As he lunged, [the man] made eye contact and said he was going to stab and kill them. He got to within a foot of [the victim] as he lunged a second time. [The victim] stepped back for safety reasons. Asked point blank, [the victim] testified: ‘If I didn’t move I would have been stabbed.’”

The Court further stated, “We need not engage in difficult line drawing to determine the precise limits of a defendant’s striking radius in light of particular physical limitations. Wherever that line lies as to [the man], his actions clearly fell within it, given evidence he thrust his blade within a foot of [the victim], causing him to step back to avoid being stabbed. ☆

## FROM THE RANGEMASTER

### *Equipment Management*

In this month's notes from the range master, we will be discussing the importance of mounting a red dot optic to your pistol for off duty. Red dot optics are becoming increasingly popular. Almost every day, I read about another police agency switching their department to a red dot optic. These optics require proper mounting and zeroing every time. If you buy an off-duty firearm and mount a red dot sight on the gun, you must zero the optic at the range by a qualified range instructor BEFORE you start carrying the gun off-duty. You must also qualify with it before carrying it off-duty.

Range staff must ensure the optic is put on properly with the proper torque specifications and the proper amount of Loctite thread locking compound. You cannot simply mount a red dot optic to your firearm and expect it to be zeroed (point of aim is equal to point of impact at a specific distance from the target). You need to verify the zero at the range and adjust the optic as needed. When you come to the range and ask us to install and zero the firearm, we create a qualification sheet to support and confirm your off-duty firearm is functional and zeroed properly. Please, never buy a firearm and assume it is zeroed and ready to carry. Please reach out to me or the range staff for help. That is what we are here for. Thank you and stay safe.

- Sgt. David Weidner