



# Memorandum

**TO: ALL DEPARTMENT PERSONNEL**

**FROM: Anthony Mata**  
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:  
SEARCH WARRANT RETURNS**

**DATE: July 7, 2021**

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APPROVED

Memo# 2021-020

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## **BACKGROUND**

Effective immediately, the Santa Clara County Courts will no longer review and sign Search Warrant Returns. Search Warrant Returns shall be submitted to the Clerk's Office in the same manner as before, minus the judge's signature. Subdivision (d) of Penal Code Section 1534 authorizes the search warrant return to be made either to the "issuing magistrate or their court." The Clerk's Office is aware of this policy change and has been directed to accept all search warrant returns without judicial signature. An example search warrant return is attached below.

## **ANALYSIS**

The Duty Manual has been revised to reflect changes described below. Additions are show in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

### **L 3806 OBTAINING DURING NORMAL WORKING HOURS:** *Revised 07-07-21*

The officer intending to search will prepare an affidavit and search warrant detailing the facts and circumstances that establish reasonable cause to conduct the search. The officer will seek approval from the District Attorney's Office. Once approval from the District Attorney's Office is received, the officer will proceed as follows:

1. The Officer shall email an electronic "PDF" version of the draft search warrant, signed affidavit, and all supporting documents to the court's daytime search warrant email account: [REDACTED]
  - The affidavit may contain a scanned signature, a "digital" or "electronic" signature, which is any mark made with the intent that it be a signature. The following is an example of a valid electronic signature:

[REDACTED]  
[REDACTED]  
[REDACTED]

**ALL DEPARTMENT PERSONNEL**  
**SUBJECT: DUTY MANUAL REVISIONS: SEARCH WARRANT RETURNS**

July 7, 2021

Page 2

Date and Time

- The email shall include a brief description of what is attached, the number of pages attached, and a contact phone number for the officer.
2. A Supervising Judge will receive the email and assign it to an available judge for review. The Supervising Judge will copy the officer and Reviewing Judge on the assignment email.

The Reviewing Judge may contact the officer with questions or to verify that all the pages were received and that the electronic signature is genuine.

- If the Reviewing Judge has questions related to the Probable Cause to issue the warrant, the officer should edit the affidavit and submit a new request. Information from the phone call will usually **not** be admissible at a motion challenging the warrant.
  - Any further status questions or updates should be directed to the Reviewing Judge rather than the general day warrant address. If the officer does not receive a timely response from the Reviewing Judge, the officer should contact the Reviewing Judge's courtroom clerk for status updates.
3. The Reviewing Judge will review the documents and, if everything is in order, will:

- A. Sign the warrant.
- B. Note the date and time on the warrant.
- C. Email the signed warrant back to the officer.

4. The signed warrant received by the officer is the "original warrant." The officer can print and execute the warrant like any traditional hard-copy warrant.
5. Within 10 days after the judge signed the warrant:

~~A. The officer shall email a search warrant return to the daytime warrant email address: [REDACTED]~~

- ~~• The email should include the signed search warrant, all attachments that the officer received back from the original issuing judge (as reference for the court as a "Search Warrant Number" would not yet have been assigned), and a contact phone number for the Officer.~~
- ~~• The search warrant return will be processed according to the same procedure outlined above for the initial warrant request.~~

~~A. B.~~ The officer shall file a copy of the search warrant, affidavit, and search warrant return with the clerk's office. A "Search Warrant Number" will be assigned at that time.

Note: A judge's signature is no longer required on search warrant returns.

B. If the warrant is not executed, the officer shall mark the face of the warrant "Not Executed" and file a copy of the un-executed warrant with the clerk's office.

6. The officer shall upload a copy of the signed search warrant, search warrant return, affidavit, any supporting documents, and emails with the judge into Versadex, unless under seal by the court.

**L 3807      OBTAINING AFTER WORKING HOURS:**

*Revised 07-07-21*

When the circumstances are such that an immediate search is necessary to preserve evidence or contraband and the District Attorney's Office and courts are not working, members will adhere to the following procedures:

1. Prepare an affidavit and search warrant detailing the circumstances and facts which establish reasonable cause to search.
2. Contact County Communications at (408) [REDACTED] and ask for the On-Call Search Warrant Deputy District Attorney.
3. The On-Call Search Warrant Deputy District Attorney shall contact the officer to discuss the warrant. The On-Call Search Warrant Deputy District Attorney shall provide an email address for the officer to send a draft copy of the affidavit and proposed search warrant.
4. The On-Call Search Warrant Deputy District Attorney will contact County Communications and ask them to alert the On-Call Judge that a request for an after-hours search warrant is being sent by the officer. The judge may contact the On-Call Search Warrant Deputy District Attorney for further information.
5. The officer shall email an electronic "PDF" version of the draft warrant, signed affidavit, and all supporting documents to the court's nighttime search warrant email account: [REDACTED]
  - The affidavit may contain a scanned signature, a "digital" or "electronic" signature, which is any mark made with the intent that it be a signature. The following is an example of a valid electronic signature:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- The cover-email should include a phone number for the judge to contact the officer, but no other extra information about the case.
6. If the judge agrees to issue the warrant, the judge will:
    - A. Sign the warrant.
    - B. Note the date and time on the warrant.
    - C. Email the signed warrant back to the officer.

NOTE: The judge may call the officer with questions or to verify all the pages were received and that the electronic signature is genuine.

7. The signed warrant received by the officer is the "original warrant." The officer can print and execute the warrant like any traditional hard-copy warrant.

**ALL DEPARTMENT PERSONNEL**

**SUBJECT: DUTY MANUAL REVISIONS: SEARCH WARRANT RETURNS**

July 7, 2021

Page 4

8. Within 10 days after the judge signed the warrant:
- ~~A. The officer shall email a search warrant return to the Court's daytime warrant email address: [REDACTED]. The officer shall include a copy of the original signed warrant and affidavit that was returned by the issuing judge.~~
  - ~~B. A judge will review and return a signed copy of the search warrant return to the officer by email.~~
  - ~~A. C.~~ The officer shall then file a copy of the search warrant and search warrant return with the clerk's office. A "Search Warrant Number" will be assigned at that time.
- Note: A judge's signature is no longer required on search warrant returns.*
- ~~B. D.~~ If the warrant is not executed, the officer shall mark the face of the warrant "Not Executed" and file a copy of the un-executed warrant with the clerk's office.
9. The officer shall upload a copy of the signed search warrant, search warrant return, affidavit, any supporting documents, and emails with the judge into Versadex, unless under seal by the court.

**ORDER**

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata  
Chief of Police

AM:SD:MB

Attachment: Example Search Warrant Return

Attachment: Example Search Warrant Return

1	
2	
3	
4	
5	<b>SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SANTA CLARA</b>
6	
7	STATE OF CALIFORNIA
8	COUNTY OF SANTA CLARA
9	SW No. _____ <b>RETURN AND INVENTORY ON SEARCH WARRANT</b>
10	I, Detective [REDACTED], hereby make this return to the above-referenced Search Warrant
11	pursuant to Penal Code section 1534. The warrant was issued by Judge [REDACTED] on ____ (date) ____.
12	I executed the warrant on ____ (date) ____ and seized the property listed below.
13	<b>INVENTORY:</b>
14	1. _____.
15	2. _____.
16	[or: See <b>Exhibit "A,"</b> REACT Police Report Property Sheet attached hereto and
17	incorporated by reference.
18	The property seized will be held pursuant to Penal Code Section 1536 until further order of court or
19	disposed of according to authorization contained in the original warrant.
20	I swear under penalty of California perjury law that the forgoing facts are true and that this Return
21	was executed on _____, 20__.
22	
23	_____
24	Detective [REDACTED]
25	