

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

SUBJECT: EXIGENT CIRCUMSTANCES

DATE: December 10, 2021

APPROVED

Memo# 2021-042

BACKGROUND

Under the Fourth Amendment to the United States Constitution, warrantless entries into a residence are generally presumed illegal unless justified by consent or exigent circumstances. The warrant requirement is subject to certain exceptions. One such exception is for exigent circumstances. A review of Memorandum # 2021-025 – Warrantless Entry and Duty Manual section L 2819 – Warrantless Arrests Inside Dwellings or Other Structures revealed the need to align existing policy with best practices.

ANALYSIS

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

L 2819 WARRANTLESS ARRESTS INSIDE DWELLINGS OR OTHER STRUCTURES: *Revised 12-10-21*

Under the Fourth Amendment to the United States Constitution, warrantless entries into a residence to effectuate a warrantless arrest are generally presumed illegal unless justified by consent or exigent circumstances. The exigent circumstances exception to the warrant requirement enables law enforcement officers to handle “emergencies,” which are situations where presenting both a compelling need for official action and no time to secure a warrant. Officers must make a totality of the circumstances determination that an emergency has arisen. In this regard, officers shall not make a warrantless arrest in a private dwelling at any time unless consent or one of the following categories of exigent circumstances justify the warrantless entry:

EXIGENT CIRCUMSTANCES: Officers may enter to make a warrantless arrest in a private dwelling when there is a law enforcement emergency ~~an exigent situation~~ requiring swift action based on ~~to prevent~~ one of the following:

- Imminent serious damage to property

ALL DEPARTMENT PERSONNEL
SUBJECT: EXIGENT CIRCUMSTANCES

December 10, 2021

Page 2

- To prevent a suspect's escape from the private dwelling
- The need to render emergency assistance to an injured occupant Imminent danger to life
- The need to protect an occupant from imminent injury ~~Escape of a misdemeanor suspect where a lawful detention or arrest was initiated in a public place and the officer is in hot pursuit of the suspect who has retreated into a private place in order to thwart the lawful detention or arrest~~
- An imminent threat to officers or others outside the dwelling ~~Escape of a felony suspect where a lawful detention or arrest was initiated in a public place and the officer is in hot pursuit of the suspect who has retreated into a private place in order to thwart the lawful detention or arrest~~
- A realistic expectation that any delay would result in destruction of evidence Imminent destruction of evidence

EXAMPLES:

- Entry under circumstances which indicate life or property is in danger, e.g., cries for help, gunshots, fire, evidence of a burglary such as a verified response under Duty Manual Chapter L 1600—RESPONSE TO SECURITY ALARMS
- Entry in hot pursuit where a ~~misdemeanor~~ suspect flees into a home to escape pursuing the police or to evade an arrest initiated on the street and the totality of the circumstances indicates ~~determines~~ a law enforcement emergency exists. ~~has arisen~~ A suspect's flight from detention or arrest initiated in a public place does not, by itself, justify a warrantless entry into a home; the flight is a factor for consideration in determining whether exigent circumstances exist.
- ~~Entry in hot pursuit where a felony suspect flees into a home to escape the police or to evade an arrest on the street~~
- Entry into a home after overhearing a conversation from outside that such suspect is about to destroy evidence, or reliable information that the suspect is presently about to destroy evidence

~~One of the above circumstances must be present at the time of entry in order to make a warrantless arrest in a home.~~ When a warrantless arrest in a home is made, officers will report the circumstances surrounding such an arrest and document the existence of any exigent circumstances present in a General Offense report.

L 4805

WHEN LESS THAN FULL COMPLIANCE WITH THE ANNOUNCEMENT REQUIREMENTS IS JUSTIFIED BY EXIGENT CIRCUMSTANCES:

Revised 12-10-21

Officers may make entry without full compliance with the announcement requirements ~~listed~~ set out in Section L 4803—ANNOUNCEMENT REQUIRED when an exigency arises prior to or during the execution of ~~the~~ search or seizure. An exigency arises when an officer can articulate ~~point to~~ specific facts which exist at the time of entry which would lead a person of ordinary care and prudence to entertain a reasonable belief that compliance with the announcement requirements would:

- Result in imminent danger to the life of the officer or innocent residents or other innocent persons on or about the premises; or

ALL DEPARTMENT PERSONNEL
SUBJECT: EXIGENT CIRCUMSTANCES

December 10, 2021

Page 3

- Unreasonably frustrate the arrest.

NOTE:

- In order to reduce the risk of violent resistance, officers should at a minimum, announce themselves as being law enforcement officers while making entry. However, in rare circumstances such as hostage rescues or active shooter scenarios, it may be more tactically sound, and therefore acceptable, not to announce an officer's entry.
- There is no blanket rule exempting all narcotic cases from the requirements to give Knock & Notice announcements. Instead, a specific showing must be made to justify less than full compliance with the announcement requirements of Duty Manual section L 4803—ANNOUNCEMENT REQUIRED.

ORDER

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



Anthony Mata
Chief of Police

AM:SD:DK