

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STATE OF ILLINOIS,

Plaintiff,

Case No.: 1:17-cv-06260

v.

Judge Rebecca R. Pallmeyer

CITY OF CHICAGO,

Defendant.

RESOLUTION OF SEARCH WARRANT ISSUES AT IMPASSE BETWEEN THE CITY OF CHICAGO, THE OFFICE OF THE ILLINOIS ATTORNEY GENERAL, AND THE COALITION

With the assistance of the Independent Monitoring Team (“IMT”), the City of Chicago, the Office of the Attorney General (“OAG”), and the Coalition of community organizations (“the Coalition”) have negotiated agreements on a number of issues concerning the Chicago Police Department’s search warrant policy. In this order, the Court sets forth its resolution of issues concerning execution of search warrants as to which the parties have been unable to agree.

BACKGROUND

The process that led to the comprehensive search warrant policy was initiated on January 13, 2021, when the Coalition filed a Motion to Enforce the Consent Decree Concerning CPD’s Execution of Search Warrants and Home Raids [924]. The parties—the City and the OAG—responded to that motion on February 23, 2021, and June 11, 2021, respectively. (See City of Chicago’s Response In Opposition To Coalition’s Motion To Enforce The Consent Decree [932] and Plaintiff’s Response In Support of The Coalition’s Motion To Enforce The Consent Decree [957].) Then, as the parties engaged in settlement negotiations, the Court entered an order striking the motion without prejudice pending the conclusion of those negotiations [974].

The negotiations yielded agreement on several issues. On March 25, 2022, the Court entered a Stipulation Regarding Search Warrants, Consent Decree Timelines, and the Procedure for “Full and Effective Compliance” [1011], which included that the anti-discrimination provisions

of the Consent Decree ¶¶ 53–55 govern Chicago Police Department (CPD) search-warrant policies, trainings, and practices:

Thus, the City and CPD must demonstrate that the search-warrant practices (1) are not unlawfully discriminatory or retaliatory and (2) occur in an unbiased, fair, and respectful manner. Specifically, CPD must implement sufficient policies, training, data collection, supervision, and accountability systems to ensure that CPD's planning for, internal approval processes for, execution of, and after-action review of search warrants are carried out in a manner that fully complies with the Constitution and laws of the United States and the State of Illinois and are in accordance with best practices.[]

The current Search Warrants policy (Special Order S04-19) is dated December 16, 2022. Since the Stipulation was entered, the City, the CPD, the OAG, and the Independent Monitoring Team (IMT) have reviewed updated drafts of the Search Warrants policy as directed by ¶ 627 of the Consent Decree [703].

Since April 2023, the City, the CPD, and the Coalition have also engaged in more than a dozen discussions regarding the Search Warrants policy. (See Joint Status Report, December 7, 2023 (“Joint Status Report”), at 1.) Those discussions focused on some two dozen issues identified by the Coalition. The City, the CPD, and the Coalition were able to reach agreement on about 13 issues, including compromises related to harm mitigation, protection of children and other vulnerable people, and repairing harms resulting from execution of searches. (See *id.* and Coalition Position Statement at 2.) Based on these discussions, the City and the CPD agree that the most recently updated draft of the Search Warrants policy improves on the current policy and should be implemented as soon as practicable.

Although the discussions were fruitful, the City, the OAG, and the Coalition remained at impasse on several issues. The City, the OAG, and the Coalition provided position statements regarding these issues on January 10, 2024, and corresponding responses on January 22, 2024. Having reviewed those submissions and heard oral advocacy, the Court here sets forth its resolution of the following seven issues:

1. Requirement of Risk/Benefit Assessment
2. Prohibition on Search for Evidence of Minor Offenses
3. Restriction on Gun Pointing
4. Prohibition of No-Knock Warrants
5. Requiring Minimum Wait Time Before Entry
6. Scope of Supervisory Review of Body-Worn Camera Footage
7. Release of Body-Worn Camera Footage.

Consistent with Consent Decree ¶ 627, the City and CPD will be directed to produce final drafts of the Search Warrants policy, incorporating the Court's resolutions, for review and no-objection notice from the OAG and the IMT.

STANDARD

All of those involved here—the City, the OAG, and the Coalition—agree that resolution of the disputed issues depends on whether the CPD's positions align with “best practices,” as defined by the Consent Decree. Specifically, Paragraph 730 of the Consent defines best practices as “any guidelines, standards, policies, procedures, or methods that are consistent with the requirements and goals of this Agreement[] and are either supported by research or empirical evidence or are accepted by industry-recognized professionals, agencies, or organizations in the relevant subject area.”

The Consent Decree further clarifies that, in “case of any conflict or inconsistency between industry-recognized professionals, agencies, or organizations regarding a best practice, CPD is entitled to adopt the practice it prefers, provided that the practice is consistent with the requirements and goals of this Agreement.” The Consent Decree thus does not by its terms require that CPD's position be accepted by all industry-recognized professionals, agencies, or organizations—or be the preferred choice of the OAG, the Coalition, the IMT, or this Court.

In other words, on each issue, the CPD's preferred policy position will stand if it is (1) consistent with the Consent Decree requirements, (2) consistent with the goals of the Consent

Decree, and (3) either supported by research, empirical evidence, or accepted by industry-recognized professionals, agencies, or organizations in the relevant subject matter.

RESOLUTION

Consistent with reasoning shared with the Parties, the Monitor, and the Coalition, the Court resolves disputed issues as summarized below. Under the Consent Decree review procedures, the City and the CPD should work with the OAG and the IMT to ensure that the CPD’s final policies, training, and practices are consistent with these resolutions.

	Issue	Court Resolution
1	Risk versus Benefit Assessment	The CPD should clarify, in policy, that CPD personnel are responsible for weighing the anticipated benefits against the risks of each search warrant.
2	Prohibition on Minor Offenses	Given the CPD’s pending new requirement to have high-ranking personnel weigh anticipated benefits and risks for each search warrant, current “best practices” do not compel the CPD to preemptively prohibit legal search warrants based on types of offenses.
3	Restricting Gun Pointing	The CPD should codify, as policy, its existing standards for when CPD officers must stop pointing firearms at persons to better reflect the CPD’s expectations of its officers who point firearms.
4	Prohibition of No-Knock Warrants	Given new data collection, review requirements, and significant restrictions, current “best practices” do not preemptively prohibit the CPD from executing legal no-knock warrants.
5	Minimum Wait Time	Current “best practices” do not require the CPD to provide a minimum wait time before entry when executing a search warrant. The CPD is required to provide sufficient and specific training regarding the reasonable wait times under the circumstances officers are expected to encounter.
6	Scope of Supervisory Review of Body-Worn Camera Footage	Based on current “best practices,” the CPD has the discretion to review the body-worn-camera footage in the circumstances identified in its current draft policy, but the CPD must continue to evaluate the most efficient and effective scope of review.

7	Release of Body-Worn Camera Footage	The City and the CPD should ensure that body-worn-camera footage is released consistent with current law and policy.
---	-------------------------------------	----------------------------------------------------------------------------------------------------------------------

ENTER:

Dated: May 14, 2024



REBECCA R. PALLMEYER
United States District Judge