

ANALYSIS: PROPOSED POLICY CHANGES TO “NO-KNOCK” WARRANTS IN CHICAGO

Civil Liberties & Police Accountability Committee of the Chicago Council of Lawyers - October 28, 2021

INTRODUCTION

In February 2019, the Chicago Police Department (CPD) executed a no-knock warrant on the home of Anjanette Young, a social worker in Chicago. In the middle of the night, officers broke into Young’s home while she was naked, pointed weapons at her, and handcuffed her for forty minutes while they searched her home. However, the officers did not find what they were looking for when they obtained the warrant, as they had broken into the wrong apartment. The actual target of the raid lived in a different apartment and had no connection to Young. What happened to Young is an example of a “wrong raid,” where a warrant is served at an incorrect address or when a raid is inconsistent with the probable cause for which the warrant was granted.¹ Video footage of the raid was released by the city following an extensive lawsuit by Young, as well as the police murder of Breonna Taylor during the execution of a similar no-knock warrant in Louisville, Kentucky.²

In the wake of the released video footage of the raid, the public has rightfully pressured public officials to review and reform practices regarding no-knock warrants and search warrants more broadly. As of October 2021, three government bodies in Illinois have taken measures to reform existing warrant procedures: (1) the Mayor of Chicago and the Police Superintendent, through Chicago Police Department (CPD) policy changes,³ (2) the Chicago City Council with the Anjanette Young Ordinance,⁴ and (3) the Illinois General Assembly with the Safety, Accountability, Fairness, and Equity - Today (SAFE-T) Act.⁵ This report outlines the changes pursued by each group and evaluates each policy through its potential to limit the dangers posed by no-knock warrants and wrong raids.

ANALYSIS OF POLICIES

All three proposals attempt to achieve reform through similar avenues. First, all three proposals place limits on the circumstances in which no-knock warrants may be served. While the Mayor’s policy changes and the SAFE-T Act permit no-knock warrants only in exigent circumstances, the Anjanette Young Ordinance bans them altogether. Second, all proposals require officers to wear body cameras when executing a search warrant. While the SAFE-T Act (which applies statewide) has an exception for departments that do not currently have body-worn cameras, all three policies would require CPD officers

¹ See e.g., <https://www.cbsnews.com/news/anjanette-young-chicago-police-department-raid-investigation/>

² See e.g., <https://www.history.com/this-day-in-history/breonna-taylor-is-killed-by-police>

³ See e.g., <https://news.wttw.com/2021/05/14/cpd-unveils-revised-search-warrant-policies-following-botched-raids>

⁴ See e.g., <https://chicago.cbslocal.com/2021/07/27/anjanette-young-ordinance-chicago-police-search-warrant-policies-city-council-public-safety-committee/>

⁵ See e.g., <https://chicagoreader.com/news-politics/bail-abolition-is-just-the-tip-of-the-iceberg/>

to wear and activate cameras before entering a residence. Third, all proposals require officers to undertake measures that plan for and attempt to ensure the safety of vulnerable individuals, especially children. However, the Anjanette Young Ordinance is by far the most comprehensive in its safety provisions, as it explicitly prohibits officers from pointing weapons at or questioning children. Finally, all proposals introduce accountability measures proceeding a warrant's approval and following a warrant's execution.

The Chicago Mayor and Police Superintendent's Policy

In March 2021, Mayor Lori Lightfoot and Chicago Police Superintendent David Brown announced a new set of police department policies surrounding the execution of no-knock warrants and police raids.⁶ The policy changes include:

1. No-knock warrants are prohibited unless there is danger to the life or safety of officers or others, and no-knock warrants may only be served by SWAT teams;
2. All general search warrants must be personally reviewed and approved by a Deputy Chief, which is three ranks higher than the current approving position;
3. No-knock warrants must be personally reviewed and approved by Bureau Chiefs, which is four ranks higher than the current approving position;
4. Before executing warrants, police must identify any potentially vulnerable people (e.g., children) who might be at the scene, and explicitly requires compliance with the existing policy stating of the Office of Emergency Management & Communications (OEMC) if an officer points a weapon at a civilian;
5. All search warrants must be verified by an independent investigation before they are approved, even if an informant disclosed their identity;
6. Each officer assisting with the serving of search warrant must wear and activate a body-worn camera prior to the raid;
7. A female officer will be present on each raid; and
8. Extensive review and complaint review requirements, including critical incident review following wrong raids, unit-level post-raid evaluations to determine deficiencies in tactics and training, reports to the judge who issued the warrant the address where a search warrant was actually served and if it was a wrong raid, search warrant files will contain all information used to secure and verify the search warrant, and the creation of a Complaint Log number for submitting false reports about the execution of search warrants and the execution of wrong raids.

The Mayor's policy changes are especially notable for its pre-search requirements on warrant approval, which are the most exacting of any of the three approaches. Unlike the Anjanette Young Ordinance and the SAFE-T Act, these policy changes notably include increasing the rank of the officer responsible for

⁶ The full Search Warrant Policy (Special Order S04-19) of the Chicago Police Department can be found here: <https://home.chicagopolice.org/reform/policy-review/search-warrant-policy-for-public-review-and-comment/>

approving search warrants. At present, any search warrant, regardless of whether it was a no-knock warrant or if the informant was previously unreliable, only needs to be approved by a police Lieutenant before being presented to a judge. In the Mayor's policy change, a Deputy Chief (which is three ranks higher than a Lieutenant) must approve the warrant for general search warrants. For a no-knock warrant, a Bureau Chief (which is four ranks higher than Lieutenant) must approve the warrant. These requirements aim to ensure that the heads of the police department have prior knowledge of searches before they happen. This policy change will thus increase the degree to which CPD leadership can be readily identified and potentially held accountable in the future. The Mayor's CPD policy also requires that the information used to obtain a warrant be verified by an independent source (such as another informant), which may reduce the frequency of wrong raids. By requiring additional verification of information, this reform may increase the likelihood that CPD will conduct search warrants at the correct location.

In sum, the policy changes of the Mayor and Police Superintendent consist of some common-sense reforms and useful accountability measures that may reduce the frequency of wrong raids.

Chicago City Council's Anjanette Young Ordinance

The Chicago City Council Public Safety Committee has discussed, but not voted on, the Anjanette Young Ordinance.⁷ While the Anjanette Young Ordinance mirrors some of the reforms present in the Mayor's and Superintendent's policy changes listed above, the Anjanette Young Ordinance puts them into statutory form. Introduced by Aldermen Maria Hadden (49th), Sophia King (4th), Leslie Hairston (5th), and Jeanette Taylor (20th), and several other co-sponsors, the Anjanette Young Ordinance includes additional reforms and pushes some of the Mayor's proposals further. Some key components of the Anjanette Young Ordinance include:

1. Categorically prohibits no-knock warrants, and requires all officers executing a search warrant to give a resident at least 30 seconds to open the door before breaking in;
2. No search warrant request may be brought before a judge without a supervisor of the rank of Lieutenant or above ensuring that the information used to obtain the warrant is verified by at least two independent sources;
3. Requires CPD to practice the least intrusive tactics that maximally protect individuals' dignity, privacy, and property and to take measures to minimize or eliminate physical and emotional harm, including specific measures when vulnerable individuals (e.g., children) are present;
4. Extensive documentation by CPD is required, including location of the warrant, force utilized in executing the warrant, individuals present in the residence, and officers involved in serving the warrant;
5. Officers must complete a damage report before leaving the home, and they must make immediate arrangements to repair any damage that poses a threat to the safety of residents

⁷ Full text of the Anjanette Young Ordinance (O2021-764) can be found here:
<https://chicago.legistar.com/LegislationDetail.aspx?ID=4806793&GUID=EA2B2CA4-B293-4E6E-8C7D-CBC27A7EC754&Options=Advanced&Search=>

- (e.g., fixing doors, windows, appliances);
6. All search warrants must be verified by an independent investigation before they are approved, even if the informant disclosed their identity;
 7. If an informant has given CPD information that has led to a wrong raid in the past, CPD may not rely on that informant in seeking judicial authorization of additional search warrants;
 8. A female officer will be present on each raid, and all officers must be in official CPD uniforms;
 9. No warrant may be executed unless appropriate measures are taken to ensure that children 16 years or younger are not present when the warrant is served, dispatch operators must be informed if children are present, and officers are prohibited from interrogating children absent an immediate threat of physical harm;
 10. During the execution of a search warrant, officers are prohibited from pointing firearm at, handcuffing, or restraining children or doing the same to parents, relatives, or caregivers while children are present;
 11. Officers are prohibited from pointing firearms at anyone unless they present a risk of death or serious bodily harm to another person;
 12. Search warrants of residential buildings may only be executed between 9:00 AM and 7:00 PM, unless verifiable exigent circumstances are present;
 13. Each officer assisting with the serving of search warrant must wear and activate a body-worn camera prior to the raid, and CPD must retain all recordings with the ability to produce a copy of unredacted footage within two days upon request;
 14. For every executed search warrant, the Superintendent or a designee of appropriate rank must review all relevant evidence, applications, footage, and incident reports. If there is a reasonable suspicion that any officer violated the provisions of this Ordinance, the Superintendent will strip that officer of their policy power and refer the officer to further disciplinary proceedings; and
 15. No affidavit, sworn testimony or statement shall be required to initiate an investigation into an allegation of misconduct against any CPD officer.

Of the three approaches to warrant reform discussed herein, the Anjanette Young Ordinance appears to include the most in-depth package of reforms. Among the most notable changes are the categorical ban of no-knock warrants (1), the protections put in place for children and other vulnerable individuals (9, 10), and the in-depth review of every executed warrant (14). These changes are unique to the Anjanette Young Ordinance and are a primary way of differentiating the City Council’s proposal from other reforms.

If passed, the Anjanette Young Ordinance also has an advantage over the Mayor’s proposed policy changes in that the reforms are to be coded into law instead of existing solely in Chicago Police Department policy. In the past, changes to official CPD policy have been ineffective in altering the practices of police officers, such as in the use of CPD’s deeply flawed gang database.⁸ The Chicago Office of the Inspector General (OIG) determined in April 2019 that the city’s gang databases are a “deeply flawed collection of gang data, with poor quality controls and inadequate protections for procedural

⁸ See e.g., <https://news.wttw.com/2021/10/04/effort-replace-flawed-gang-database-stalled-top-cop-tells-city-council#:~:text=An%20April%202019%20audit%20by,inadequate%20protections%20for%20procedural%20rights.%E2%80%9D>

rights.”⁹ In response to the OIG report, both the Mayor and the Chicago Police Department have professed to be in the process of changing the database; however, there is no evidence of that department has attempted to improve accuracy and add accountability to their system. While some Alderpeople have claimed that reforms should come from *within* the police department, the ineffectiveness of internal CPD policy changes to date may give Chicagoans some reason to prefer the changes authorized by the Anjanette Young Ordinance. Theoretically, this is because mandating the department to follow the law requires them to answer to external, rather than internal, accountability structures when they are in violation.

External policies like the Anjanette Young Ordinance likely have more influence on the Chicago Police Department’s compliance with reforms than if the matter were handled only internally.

The SAFE-T Act

Finally, the Illinois General Assembly enacted some warrant reform measures when it passed the SAFE-T Act in early 2021.¹⁰ These measures apply statewide, and therefore control the Chicago Police Department’s warrant practices along with departments in other jurisdictions in the state following official implementation on July 1, 2021. Statewide statutory provisions and changes include:

1. No-knock warrants may not be served unless the following exigent circumstances are present (725 ILCS 5/108-8 (b) (1-2)):
 - a. The officer reasonably believes that if notice were given a weapon would be used against the officer(s) executing the search warrant or against another person; or
 - b. The officer reasonably believes that if notice were given there is an imminent danger that evidence will be destroyed.
2. Prior to executing a warrant, the officer must attest that (725 ILCS 5/108-8 (c) (1-3)):
 - a. All officers must wear and activate body-worn cameras in accordance with Section 10-20 of the Law Enforcement Officer-Worn Body Camera Act, provided that the officer’s department has implemented body-worn cameras per Section 10- 15 of the same Act. If the department has not implemented body-worn cameras, the officer must ensure that the execution of the search warrant is otherwise recorded;
 - b. Steps are taken to ensure that the search is executed accurately and to ensure that vulnerable individuals (e.g., children) are protected from physical and emotional harm; and
 - c. If an officer becomes aware that the search is a “wrong raid,” that member will notify a supervisor who will ensure an internal investigation takes place.

These statewide changes are similar to the other policy proposals. First, no-knock warrants are permitted only if exigent circumstances are present, the same approach as Mayor Lightfoot’s CPD policy

⁹ See e.g., <https://news.wttw.com/2019/04/11/gang-database-strains-police-community-relations-city-watchdog-says>

¹⁰ For the full text of Illinois House Bill 3652 (“SAFE-T Act”), visit: <https://www.ilga.gov/legislation/101/HB/10100HB3653lv.htm>

changes. Moreover, the requirements to wear and activate body-worn cameras (where applicable) and to internally review wrong raids are incorporated amongst all three proposals to ensure the protection of vulnerable citizens.

Though some police accountability measures were rolled back in the legislature in the form of HB 3443,¹¹ these warrant reforms remain intact and went into full effect on July 1, 2021. These statewide warrant changes are the most general and least extensive.

CONCLUSION AND POLICY POSITION OF THE CHICAGO COUNCIL OF LAWYERS

The measures common to the three reforms are sensible ways to reduce the lack of due diligence and accountability that led to the wrong raid of Anjanette Young by Chicago Police. By limiting the use of no-knock warrants and by introducing extensive review and complaint mechanisms, officers have greater incentive to ensure that the searches which they are conducting do not infringe upon the liberties of those who are not the subjects of search warrants.

In sum, the Mayor's and Superintendent's CPD policy changes appear to effectively increase pre-search accountability by requiring high leadership verification and approval. On the other hand, the Anjanette Young Ordinance introduces a comprehensive post-search review process, restricts what actions officers can take around or against children and other vulnerable individuals, and codifies these changes into statute, which makes it more likely that violations by CPD will lead to external accountability measures.

Though all of the reforms are important limitations on the scope of CPD's authority in executing searches, the breadth and the form of the Anjanette Young Ordinance make it the most comprehensive response to the warrant negligence problem in Chicago. The Chicago Council of Lawyers accordingly recommends that the City Council adopt the proposed Anjanette Young Ordinance.

¹¹ See e.g., <https://www.chicagoappleseed.org/2021/07/08/hb-3443-weakens-the-safe-t-act-police-reforms/>