

**MORE THAN A PLAZA**  
**DC JUSTICE LAB**

# **LIMIT SEARCH WARRANTS**

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## Limit Search Warrants

The recent symbolic gestures and budget redistribution in Washington D.C. are not enough to address these systematic abuses in policing practices, which disproportionately impact Black and Hispanic communities. Of the many issues present in D.C. policing, search warrants executions rank high on the list of practices that must be amended to protect the citizens of the District. Breonna Taylor’s killing opened a new conversation about the use and abuse of search warrants,<sup>1</sup> but few people have called for drastically limiting police invasions to prevent unnecessary violence. Current search warrant practices cause emotional and physical injuries, massive property damage, and death throughout the country, and Washington D.C. is no exception. Current search practices in Washington, D.C. have little connection to public safety and have frequently served only to terrorize citizens in their homes.

Alec Karakatsanis, whose organization filed seven successive lawsuits against the District for misconduct during search warrants, stated, “[W]e informed DC government that 99.2% of these illegal search warrant raids were against Black families...”<sup>2</sup>



With limited accountability and the broad latitude given to police officers, search warrants are easy to obtain and easy to abuse at all steps in the process. Current search warrant practices not only fail at gathering evidence (the rationale behind warrants) but also actively make the D.C. community less safe.<sup>3</sup> As a result, many of the Metro Police Department’s (“MPD”) abusive tactics only face scrutiny when victims bring civil suits against the MPD. Even when citizens can bring complaints, many are unable to get compensation for property damage or the violence<sup>4</sup> they faced as a result of the search warrant.

### I. Standard of Proof – Probable Cause and Judicial Charity:

**“Police are going to push the limit...and these types of warrants are counter to what the Fourth Amendment is about.”<sup>5</sup>**

Under the Fourth Amendment of the U.S. Constitution<sup>6</sup>, warrants (be they issued for an arrest or a search) require a showing of probable cause.<sup>7</sup> This requirement is the core substantive constraint on police power in the United States<sup>8</sup>, the line between privacy and security and, sometimes violent, police intrusion. However, what is necessary to show probable cause is, at best, murky and uncertain, allowing courts to use broad discretion in deciding when to grant a search warrant in an individual case.<sup>9</sup> The standard for obtaining a search warrant under the probable cause framework must be narrowed in the District to allow search warrants only upon a strong showing of evidence, based on reasonable due-diligence, by requesting officers.

The current working “definition” of probable cause is imprecise and, therefore, is not useful in the modern application of the Fourth Amendment.<sup>10</sup> The Supreme Court has neglected to articulate a usable framework, stating that “the probable-cause standard is incapable of precise definition or quantification into percentages because it deals with probabilities and depends on the totality of the circumstances.”<sup>11</sup> In light of this uncertain definition, probable cause has become whatever a particular judge says on a particular day, with great deference afforded to police officers, rather than a consistently enforceable standard.<sup>12</sup>

In Washington, D.C., the probable cause standard under the Fourth Amendment framework has become a showing of a “fair probability that evidence of a crime would be found.”<sup>13</sup> Police have wide latitude to conduct searches based on little evidence that would show probable cause and the D.C. Court of Appeals frequently upholds home search warrants relying on an “officer’s training and experience.”<sup>14</sup> It is, therefore, no surprise that officers often obtain search warrants for the incorrect houses, against the wrong people, and often recover no evidence at all.<sup>15</sup>

**“It’s a mass-produced, search-and-recovery operation. It’s an assembly line. It’s not a progressive policy and it imperils police and people alike.”<sup>16</sup>**

Police often rely on addresses in the court system, which can be outdated, and often fail to verify address information.<sup>17</sup> Between January 2013 and January 2015, 284 search warrants either cited no evidence of criminal activity, involved heavily armed police squads, resulted in property damage, emotional, or physical injuries to a person unconnected with the suspected crime that preceded the issuance of the search warrant.<sup>18</sup> In about 40% of those cases, the police left without recovering any evidence of criminal activity.<sup>19</sup> In searches based on warrants gained from an officer’s “training and experience,” drugs were recovered in one-third of the cases.<sup>20</sup> A 33% success rate is hardly a showing that backs up claims that the current standard of probable cause yields probable results.

There is clearly a need to create a stricter standard for issuing search warrants. In 2016, D.C. council member David Grosso (I-At Large) sponsored a bill called [Search Warrant Execution Accountability Act](#)<sup>21</sup> designed to prevent erroneous searches and give residents a course of action if police mistakenly raid their homes.<sup>22</sup> This bill sought to prevent judges from issuing search warrants unless police show that they have exercised “due diligence” to determine that the suspect owns or lives in that property they wish to search.<sup>23</sup> Police would have to show a “preponderance of the evidence,” instead of probable cause, that the items being sought were likely to be removed or destroyed, or that the property could not be searched during the day.<sup>24</sup> Recent proposals in the District, however, have gone in the opposite direction, proposing expanding the power to grant search and arrest warrants to magistrate judges.<sup>25</sup> This is the exact opposite of what is needed to reform current search warrant practices - instead of expanding who can issue warrants, the District should be creating higher standards for granting search warrants. Search warrants should only be granted after an officer has undertaken a serious investigation and can present strong evidence of criminal activity to a judge.

Increasing the standard necessary to show probable cause is not without precedent in D.C. During the search of [Michael Cohen's office in 2018](#)<sup>26</sup>, FBI officials stated that when searching an attorney's office "you have to show ... a substantial, pertinent reason to believe that evidence [of a crime] exists."<sup>27</sup> There is no reason that the same standard should not be applied to search warrants of non-lawyers in their residences. The District must raise the bar. It is, critical that the method of obtaining and executing a search warrant is limited to cases where police have exercised due diligence in identifying the correct person and property. Requiring more investigative work not only yields better results but also ensures that MPD will not search the homes of individuals unconnected to any criminal activity.

## **II. Method of Entry – No-Knock and Quick-Knock Warrants:**

Search warrant reform does not end with strengthening the definition of probable cause; individuals who are subject to legitimate searches are deserving of protection against violent tactics currently used by police officers.

While laws throughout the country are currently changing, most states and Washington, D.C. do not ban no-knock or quick-knock search warrants, even though there have been many complaints about property damage, searches on the wrong address, serious bodily harm, and emotional distress.<sup>28</sup> Some cities have considered reforms<sup>29</sup>, but D.C. has yet to act, and more is needed to protect our communities.<sup>30</sup>

In 2017, 13 states had enacted laws authorizing no-knock warrants, 13 states had approved of them through rulings by appellate courts, and 7 states routinely granted them in the absence of explicit authority by statute or the courts.<sup>31</sup>

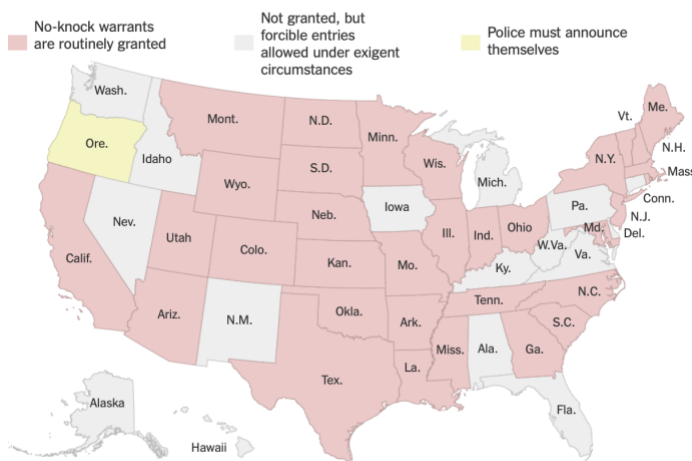
### ***Justice for Breonna***

On March 23, 2020, in Louisville, KY, police killed a 26-year old emergency medical technician named Breonna Taylor in her sleep. Three officers entered her apartment with a battering ram during a late-night drug investigation.<sup>32</sup> Police officers shot her at least eight times.<sup>33</sup> Only one officer was charged, but not for Ms. Taylor's death,<sup>34</sup> and protests across the country have asked for accountability.<sup>35</sup>

The Louisville Metro Council in Kentucky passed an ordinance called "Breonna's Law" that bars the execution of no-knock warrants and requires police officers to activate their

### **Most States Allow No-Knock Searches**

The legal status of no-knock search warrants differs from state to state. In some, they are authorized by law or judicial precedent. In others, they are granted by judges in the absence of statute or case law when exigent circumstances exist, like a risk of danger or destruction of evidence. Oregon is the only state with a law requiring the police to always announce themselves before serving a search warrant.



*Door-Busting Drug Raids Leave a Trail of Blood*  
New York Times, 2017

body cameras before, during, and after a search.<sup>36</sup> The civil settlement between the city and Taylor's family makes three search warrant reforms: (1) a commanding officer must review and approve all search warrants and assess risk, (2) the department plans must overhaul the process for simultaneous search warrants, and (3) the department now requires that emergency medical services be at the scene where forced entry warrants are used.<sup>37</sup>

On June 6, 2020, Sen. Rand Paul (R-KY) introduced [The Justice for Breonna Taylor Act](#).<sup>38</sup> It seeks to ban federal law enforcement officers from carrying out a warrant "until after the officer provides notice of his or her authority and purpose" and blocks state and local law enforcement agencies that receive Justice Department funding from carrying out warrants that do not require the officer involved "to provide notice of his or her authority and purpose before forcibly entering a premises."<sup>39</sup> Other members of Congress have been formulating similar reforms. Republican Sen. Tim Scott's proposal would require states to provide data on their use of no-knock warrants, and "House Democrats' proposal would ban no-knock warrants in drug cases."<sup>40</sup> Rep. Ayanna Pressley (D-MA) and Rep. Rashida Tlaib (D-MI) introduced the BREATHE Act, which would prohibit federal law enforcement from requesting any warrant that permits no-knock or short-knock entries.<sup>41</sup>

### ***Justice for All***

In a small apartment in Southeast Washington, on the evening of March 26, 2013, Patrice Pitts, a 56-year-old woman was resting in bed when, without any warning, around ten MPD officers broke through her front door with no warning.<sup>42</sup> A woman that has difficulty moving even with a cane was forcibly handcuffed and taken to the family room. Officers then brought her son, Michael, to the living room and pulled down his pants to examine and probe his naked genitals and anal cavity. He was then pushed to the ground and handcuffed.<sup>43</sup>

As is not uncommon in Washington, D.C., MPD officers had no evidence that Miss. Pitts or her son were involved in any criminal activity.<sup>44</sup> "The search warrant application was based only on two things: (a) three days earlier, several MPD officers had arrested Ms. Pitts's uncle, 64-year-old Tyrone Pitts, while he was standing on the street and (b) the MPD officers' generic and conclusory claims that, based on their "training" and "experience," they are likely to find guns, ammunition, and other firearms accessories in a person's home after an arrest for gun possession is made away from the home. None of the weapons the MPD based its warrant off of were present, in fact, no evidence of any criminal activity was found at Ms. Pitts' home.<sup>45</sup> Miss. Pitts' story is not an exception, and many others have been subjected to dangerous and invasive, late-night, no-knock raids throughout Washington, D.C.<sup>46</sup>

Councilmember Grosso's 2016 proposal would have limited when officers could execute searches, requiring special permission from a judge to conduct searches during later hours.<sup>47</sup> "[No-Knock warrants] are extremely volatile and dangerous,"<sup>48</sup> and have no place in our community, and Washington, D.C. would not be alone in the region, in moving to ban this practice. A proposal currently under consideration in Virginia requires officers to "announce [that] they are serving a warrant at a residence" and do it during day-time unless otherwise authorized by a judge.<sup>49</sup> Similarly, Councilman Julian Jones in Baltimore City plans on introducing legislation limiting the use of no-knock warrants.<sup>50</sup>

No-knock search warrants must be banned. Quick-knock warrants should be limited to cases where there is a strong showing that circumstances require immediate action to protect against a risk of imminent serious physical harm or death. And, searches should only be done during the daytime, unless special permission has been granted by a judge for good cause shown.

### **III. Basis of Search – The War on Drugs:**

No-knock warrants are a product of the “war on drugs” and were first adopted at the national level as a way to use a show of force to underscore just how serious the government was about policing drug crime.<sup>51</sup>

**“[No-Knock warrants] became...really widespread in the 1980s in police departments across the country as we...really militarized and ramped up the war on drugs. And...it is primarily used to serve warrants for people who are suspected of drug crimes.”<sup>52</sup>**

Across the country, it is estimated 8-10 people who are completely uninvolved are killed during these raids.<sup>53</sup> Every home invasion (no-knock, quick-knock, or otherwise) poses a significant danger to the residents of Washington, D.C.

In 2013, during a nighttime execution of a warrant, officers ransacked the home of Shandalyn Harrison searching for evidence of drug distribution.<sup>54</sup> When they burst in, officers found Ms. Harrison watching television with her 7- and 13-year-old daughters. Police pointed guns at her 19-year-old brother who was playing video games in his bedroom, before proceeding to the bathroom where the “opened the shower curtain and pointed a gun” at Ms. Harrison’s 11-year-old daughter “while she stood naked in the shower.”<sup>55</sup> **“Why? They had arrested her daddy 13 days earlier in a different part of the city with a small amount of marijuana.”<sup>56</sup>** The target of the search had not lived in the house for several years.<sup>57</sup>

Given D.C.’s small geographic footprint, it is almost certain that any person engaging in high-level drug trafficking has committed a federal offense, obviating the need for local enforcement to engage in drug raids. Accordingly, local search warrants of homes should no longer include searches for drug activity or searches based on drug activity alone.

### **IV. Other Limits and Redress:**

Judges typically issue search warrants under broad terms<sup>58</sup> and police have extensive authority to behave as they see fit during a search. MPD’s use of violent entry tactics and their behavior during searches leads to massive amounts of property damage, physical injuries, and emotional distress to the citizens subjected to the search. It is difficult for individuals subject to abusive searches to get recourse for the damage done during a search <sup>59</sup> Reform is needed to ensure the safety of D.C. residents.

Search and arrest warrants contain different authorizations yet are often conflated by MPD.<sup>60</sup> Neither is a replacement for the other, however police frequently use search warrants to initiate arrests and engage in full-scale warrantless searches during an arrest.<sup>61</sup> While D.C. Courts have maintained that an arrest warrant is not a substitute for a search warrant, courts hear these cases after considerable damage has already been done.<sup>62</sup>

**“Breonna Taylor would be here today if not for the War on Drugs...She was a casualty of a war...a war on poor people and people of color...The best thing we could do for [her] memory is to end it once and for all.”**

– Michelle Alexander, author of [The New Jim Crow: Mass Incarceration in the Age of Colorblindness](#)  
(September 29, 2020 via Instagram Live)

In April 2014, MPD officers burst through Margaret Brown's front door, pointed guns in her face, and handcuffed her while proceeding to knock over her furniture, go through all her belongings, and open an urn containing her mother's ashes.<sup>63</sup> Ms. Brown had never been convicted of a crime and was unconnected to the suspected criminal activity.<sup>64</sup>

These cases illustrate the outrageous breadth of violent and intrusive search warrant practices in D.C. Raids have knocked holes in walls, destroyed furniture, broken doors, and led to physical and emotional injuries.<sup>65</sup>

These aggressive tactics are not only accepted by officials within the MPD, they are actively encouraged. On January 15, 2019, MPD Officers broke down a door and rushed into an apartment to complete a search for drugs they believed to be on the property.<sup>66</sup> During this search, officers engaged one individual in warrantless bodily searches that constituted sexual assault.<sup>67</sup> Sexual assault during searches is not uncommon, and in disciplinary hearings for other complaints, Ret. Sgt. John Brennan of the MPD stated that **officers "should not be afraid to go up the crotch"**<sup>68</sup> during a search. This extreme disregard for the safety and well-being of citizens of the district cannot be tolerated, and search warrants must be issued with specific guidelines for what persons and property can be searched and how officers may conduct the search. There should be limits on handcuffing, pointing weapons, and searching an individual.

It is difficult for victims of these warrant practices to seek redress. Courts have denied victims reasonable compensation for property damage and emotional harm.<sup>69</sup> In 2016, a bill before the Maryland General Assembly would have required law enforcement agencies to pay for damaged property if a search did not turn up "relevant evidence" or was carried out at the wrong address.<sup>70</sup> The New York legislature considered at that time a similar measure that would have required cities to reimburse property owners for damage done during searches unless the owner was convicted of a crime related to the search.<sup>71</sup> D.C.'s Search Warrant Execution Accountability Act offered compensation only if the warrant was executed at the wrong address. Residents should be reimbursed for the damage done to their property, regardless of whether or not the warrant was legally issued.<sup>72</sup> The legality of a search can no longer be a basis to deny compensation for abusive searches.



DC Justice Lab calls on the District of Columbia to take immediate action to reform and limit the use of search warrants. Granting search warrants based on a strong showing of evidence of a serious crime or offense will decrease the number of improper searches. Limiting search warrants to these cases and creating a standard for what conduct is acceptable during a search is critical to decreasing casualties and ensuring that citizens are not terrorized by the actions of MPD Officers. The District must:

- **Require strong evidence, due diligence, and transparency.**
- **Disallow search warrants for drug activity or based on drug activity alone.**
- **Ban no-knock warrants and limit quick-knock warrants.**
- **Prohibit handcuffing, gun-pointing, and searching individuals, unless immediately necessary to prevent a physical injury.**
- **Compensate victims.**

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- <sup>7</sup> *Id.*
- <sup>8</sup> Andrew M. Creso, *Probable Cause Pluralism*, 129 YALE L.J. 1276, 1279 (2020).
- <sup>9</sup> *Id.*; Cynthia Lee, *Probable Cause with Teeth*, 88 GEO. WASH. L. REV. 269, 278-79 (2020).
- <sup>10</sup> *Id.* at 278 (citing Erica Goldberg, *Getting Beyond Intuition in the Probable Cause Inquiry*, 17 LEWIS & CLARK L. REV. 789, 795 (2013)).
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- <sup>15</sup> *Id.*
- <sup>16</sup> *Id.*
- <sup>17</sup> *Id.*
- <sup>18</sup> *Id.*
- <sup>19</sup> *Id.*
- <sup>20</sup> *Id.*
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- <sup>22</sup> Derek Hawkins, *D.C. Police Would Have to Meet Higher Standards for Searches Under Proposed Law*, WASHINGTON POST (Apr. 5, 2016) (available at [https://www.washingtonpost.com/local/public-safety/dc-police-would-have-to-meet-higher-standards-for-searches-under-proposed-law/2016/04/05/3c67f62e-fb6d-11e5-886f-a037dba38301\\_story.html](https://www.washingtonpost.com/local/public-safety/dc-police-would-have-to-meet-higher-standards-for-searches-under-proposed-law/2016/04/05/3c67f62e-fb6d-11e5-886f-a037dba38301_story.html)).
- <sup>23</sup> *Id.*
- <sup>24</sup> *Id.*
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- <sup>40</sup> *Id.*
- <sup>41</sup> See Movement 4 Black Lives, *The BREATHE Act Federal Bill Proposal*, (available at <https://breatheact.org/wp-content/uploads/2020/09/The-BREATHE-Act-V.16.pdf>) (last visited September 30, 2020).
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- <sup>57</sup> Staples, *supra* note 53.
- <sup>58</sup> Balko, *supra* note 45.
- <sup>59</sup> Sullivan et al., *supra* note 5 (stating that claims for property damage from the execution of a valid search warrant are often denied, leaving civil complaints as the only way for residents to seek compensation for damages).
- <sup>60</sup> *Green v. United States*, No. 16-CF-1226, 2020 WL 3868815, at \*4-5.
- <sup>61</sup> *Id.*
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- <sup>63</sup> Sullivan, *supra* note 5.
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<sup>68</sup> *Id.*

<sup>69</sup> Sullivan et al., *supra* note 5.

<sup>70</sup> *Id.*

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## Appendix: Proposed Amendments

### **§ 23–521. Nature and issuance of search warrants.**

(a) Under circumstances described in this subchapter, a judicial officer may issue a search warrant upon application of a law enforcement officer or prosecutor. A warrant may authorize a search to be conducted anywhere in the District of Columbia and may be executed pursuant to its terms.

(b) A search warrant may direct a search of any or all of the following:

- (1) one or more designated or described places or premises;
- (2) one or more designated or described vehicles;
- (3) one or more designated or described physical objects; or
- (4) designated persons.

(c) A search warrant may direct the seizure of designated property or kinds of property, and the seizure may include, to such extent as is reasonable under all the circumstances, taking physical or other impressions, or performing chemical, scientific, or other tests or experiments of, from, or upon designated premises, vehicles, or objects.

(d) Property is subject to seizure pursuant to a search warrant if there is probable cause to believe that it —

- (1) is stolen or embezzled;
- (2) is contraband **other than a controlled substance** or otherwise illegally possessed;
- (3) has been used or is possessed for the purpose of being used, or is designed or intended to be used, to commit or conceal the commission of a ~~criminal~~ **felony offense other than a controlled substance offense**; or
- (4) constitutes evidence of or tends to demonstrate the commission of a ~~an~~ **felony offense other than a controlled substance offense**, the identity of a person participating in the commission of a ~~an~~ **felony offense other than a controlled substance offense**, or the identity of a person who is the victim of a ~~crime~~ **felony offense other than a controlled substance offense**.

(e) A search warrant may be addressed to a specific law enforcement officer or to any classification of officers of the Metropolitan Police Department of the District of Columbia or other agency authorized to make arrests or execute process in the District of Columbia.

(f) A search warrant shall contain —

- (1) the name of the issuing court, the name and signature of the issuing judicial officer, and the date of issuance;
- (2) if the warrant is addressed to a specific officer, the name of that officer, otherwise, the classifications of officers to whom the warrant is addressed;
- (3) a designation of the premises, vehicles, objects, or persons to be searched, sufficient for certainty of identification;
- (4) a description of the property whose seizure is the object of the warrant;
- (5) a direction that the warrant be executed during the hours of daylight or, where the judicial officers have found cause therefor, including one of the grounds set forth in section 23-522(c)(1), an authorization for execution at any time of day or night; and
- (6) a direction that the warrant and an inventory of any property seized pursuant thereto be returned to the court on the next court day after its execution.

### § 23–522. Applications for search warrants.

(a) Each application for a search warrant shall be made in writing, or by telephone or other appropriate means, including facsimile transmissions or other electronic communications, upon oath or affirmation to a judicial officer, pursuant to the Superior Court Rules of Criminal Procedure.

**The judicial must, before issuing the warrant, examine on oath the complainant and any witnesses he may produce, and require their affidavits or take their depositions in writing and cause them to be subscribed by the parties making them.**

(b) Each application shall include —

(1) the name and title of the applicant;

(2) a statement that there is ~~probable cause~~ **clear and convincing evidence** to believe that property of a kind or character described in section 23-521(d) is likely to be found in a designated premise, in a designated vehicle or object, or upon designated persons **at that time**;

(3) allegations of fact **other than the commission of a controlled substance offense** supporting such statement, **including:**

**(A) a statement detailing when and how the location of the property was verified;**

**(B) a statement detailing when and how the truthfulness of tip provided by a confidential informant was verified;** and

(4) a request that the judicial officer issue a search warrant directing a search for and seizure of the property in question.

~~The applicant may also submit depositions or affidavits of other persons containing allegations of fact supporting or tending to support those contained in the application.~~

(c) The application may also contain a request that the search warrant be made executable at any hour of the day or night upon the ground that there is ~~probable cause~~ **clear and convincing evidence** to believe that (1) it cannot be **safely or effectively** executed during the hours of daylight, (2) the property sought is likely to be removed or destroyed if not seized forthwith, or (3) the property sought is not likely to be found except at certain times or in certain circumstances. Any request made pursuant to this subsection must be accompanied and supported by allegations of fact supporting such request.

**(d) An application for a search warrant shall not be sealed unless a judicial officer finds it is likely that public access to the application would jeopardize public safety or an ongoing investigation. An affidavit shall be sealed for a period of not more than 60 days, unless the time period is extended by a judicial officer upon a motion for good cause shown. Each extension shall be for a period of not more than 30 days.**

### § 23–523. Time of execution of search warrants.

(a) A search warrant shall not be executed more than ten days after the date of issuance and shall be returned to the court after its execution or expiration in accordance with section 23-521(f)(6).

(b) A search warrant may be executed on any day of the week and, in the absence of express authorization in the warrant pursuant to section 23-521(f)(5), shall be executed only during the hours of daylight. For the purposes of this subsection, the term “hours of daylight” means between 6:00 a.m. and 9:00 p.m.

### § 23–524. Execution of search warrants.

(a) An officer executing a warrant directing a search of a dwelling house or other building or a vehicle shall execute such warrant in accordance with section 3109 of Title 18, United States Code.

(b) An officer executing a warrant directing a search of a person shall give, or make reasonable effort to give, notice of his identity and purpose to the person, ~~and, if such person thereafter resists or refuses to permit the search, such person shall be subject to arrest by such officer pursuant to section 23-581(a) for violation of section 432 of the Revised Statutes of the United States relating to the District of Columbia (D.C. Official Code, sec. 22-405) (resisting a police officer) or other applicable provision of law.~~

(c) (1) An officer ~~or agent~~ executing a search warrant shall write and subscribe an inventory setting forth the time of the execution of the search warrant and the property seized under it.

(2) If the search is of a person, a copy of the warrant and of the return shall be given to that person.

(3) If the search is of a place, vehicle, or object, a copy of the warrant and of the return shall be given to the owner thereof if he is present, or if he is not, to an occupant, custodian, or other person present; or if no person is present, the officer shall post a copy of the warrant and of the return upon the premises, vehicle, or object searched.

(d) A copy of the warrant shall be filed with the court whose judge or magistrate authorized its issuance on the next court day after its execution, together with a copy of the return.

(e) An officer ~~or agent~~ executing a search warrant may seize any property discovered in the course of the lawful execution of such warrant if he has probable cause to believe that such property is subject to seizure under section 23-521(d), even if the property is not enumerated in the warrant or the application therefor, and no additional warrant shall be required to authorize such seizure, if the property is fully set forth in the return. Such seizure may include taking physical or other impressions or performing chemical, scientific, or other tests or experiments.

(f) An officer ~~or agent~~ executing a search warrant may take photographs and measurements during the execution.

(g) An officer executing a warrant directing a search of premises or a vehicle may search any person therein **only** (1) to the extent reasonably necessary to protect himself or others from the use of any weapon which may be concealed upon the person, or (2) to the extent reasonably necessary to find property enumerated in the warrant which may be concealed upon the person.

**(h) The officer executing a warrant directing a search of premises may break open any outer or inner door or window to execute the warrant, only if:**

**(1) After knocking and giving notice of his authority and purpose, 15 seconds elapses and he is refused admittance;**

**(2) The warrant expressly authorizes the officer to enter within 15 seconds of knocking and announcing his presence and:**

**(A) The warrant application establishes by a preponderance of the evidence that waiting 15 seconds would jeopardize public safety or an ongoing investigation; and**

**(B) The officer makes reasonable efforts to ensure that emergency medical services are available to respond to the scene, if needed.**

**(3) Exigent circumstances arise after the warrant has issued.**

**(i) The officer executing a warrant directing a search of premises shall not point a firearm at an individual, handcuff an individual, or search an individual, unless:**

**(1) The officer has an objectively reasonable basis to believe the individual is armed and dangerous; or**

**(2) The officer has probable cause to arrest the individual and is placing the individual under arrest.**

### **§ 23–525. Disposition of property.**

A law enforcement officer or a designated civilian employee of the Metropolitan Police Department who seizes property in the execution of a search warrant shall cause it to be safely kept for use as evidence. No property seized shall be released or destroyed except in accordance with law and upon order of a court or of the United States attorney or Corporation Counsel for the District of Columbia [Attorney General for the District of Columbia] or one of their assistants.

### **§ 23–526. Remedies.**

**(a) A search conducted in violation of any of the provisions of this section is invalid.**

**(b) It shall be unlawful for a law enforcement officer to knowingly conduct an invalid search.**

**(c) Any evidence seized as a result of an invalid search is inadmissible against any person in a criminal trial.**

**(d) If the execution of a search warrant by the Metropolitan Police Department results in damage or destruction of property, the District of Columbia shall reimburse the property owner the reasonable expenses required to replace property or restore property to the condition it was in prior to the search, whichever is less.**

### **§ 48-921.02. Search warrants; issuance, execution and return; property inventory; filing of proceedings; interference with service.**

~~(a) Except as provided in subsection (a-1) of this section, a search warrant may be issued by any judge of the Superior Court of the District of Columbia or by a United States Magistrate for the District of Columbia when any controlled substances are manufactured, possessed, controlled, sold, prescribed, administered, dispensed, or compounded, in violation of the provisions of the District of Columbia Uniform Controlled Substances Act of 1981 [D.C. Law 4-29], and any such controlled substances and any other property designed for use in connection with such unlawful manufacturing, possession, controlling, selling, prescribing, administering, dispensing, or compounding may be seized thereunder, and shall be subject to such disposition as the Court may make thereof and such controlled substances may be taken on the warrant from any house or other place in which they are concealed.~~

~~(a-1) A search warrant shall not be issued if the sole basis for its issuance would be the possession or transfer without remuneration of marijuana weighing one ounce or less.~~

~~(b) A search warrant cannot be issued but upon probable cause supported by affidavit particularly describing the property and the place to be searched.~~

~~(c) The judge or Magistrate must, before issuing the warrant, examine on oath the complainant and any witnesses he may produce, and require their affidavits or take their depositions in writing and cause them to be subscribed by the parties making them.~~

~~(d) The affidavits or depositions must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.~~

~~(e) If the judge or Magistrate is thereupon satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence, he shall issue a search warrant, signed by him, to the Chief of Police of the District of Columbia or any member of the Metropolitan Police Department, the Chief or any member of the District of Columbia Housing Authority Police Department, or the Chief or any member of the United States Park Police, stating the particular grounds or probable cause for its issue and the names of the persons whose affidavits have been taken in support thereof, and commanding the Chief of Police or member of the Metropolitan Police Department, the Chief or member of the District of Columbia Housing~~

~~Authority Police Department, or the Chief or member of the United States Park Police forthwith to search the place named for the property specified and to bring it before the judge or Magistrate.~~

~~(f) A search warrant may in all cases be served by any of the officers mentioned in its direction, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution.~~

~~(g) The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance.~~

~~(h) The judge or Magistrate shall insert a direction in the warrant that it may be served at any time in the day or night.~~

~~(i) A search warrant must be executed and returned to the judge or Magistrate who issued it within 10 days after its date; after the expiration of this time the warrant, unless executed, is void.~~

~~(j) When the officer or the designated civilian employee of the Metropolitan Police Department, the District of Columbia Housing Authority Police Department, or the United States Park Police takes property under the warrant, he must give a copy of the warrant together with a receipt for the property taken (specifying it in detail) to the person from whom it was taken by him, or in whose possession it was found; or in the absence of any person, he must leave it in the place where he found the property.~~

~~(k) The officer or the designated civilian employee of the Metropolitan Police Department, the District of Columbia Housing Authority Police Department, or the United States Park Police must forthwith return the warrant to the judge or Magistrate and deliver to him a written inventory of the property taken, made publicly or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they are present, verified by the affidavit of the officer at the foot of the inventory and taken before the judge or Magistrate at the time, to the following in effect: "I, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant."~~

~~(l) The judge or Magistrate must thereupon, if required, deliver a copy of the inventory to the person from whose possession the property was taken and to the applicant for the warrant.~~

~~(m) The judge or Magistrate must annex the affidavits, search warrant, return, inventory, and evidence, and at once file the same, together with a copy of the record of his proceedings, with the Clerk of the Superior Court of the District of Columbia.~~

~~(n) Whoever shall knowingly and willfully obstruct, resist, or oppose any such officer or person in serving or attempting to serve or execute any such search warrant, or shall assault, beat, or wound any such officer or person, knowing him to be an officer or person so authorized, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 2 years.~~