

SEARCH WARRANT TASK FORCE

Search Warrant Task Force
Reviewing Committee
June 21, 2021

Minutes

- I. Review Committee Convened. Attendees were Judge Foster Cotthoff, Rep. Ed Massey, Chief Joe Monroe (virtual), Hon. Damon Preston, Hon. Joseph Ross, and Hon. Rob Sanders.
- II. First order of business suggested was to elect a Chairman of the Review Committee. Rep. Massey nominated Judge Cotthoff who accepted, and Rob Sanders seconded the Motion to make Judge Cotthoff the Chairman.
- III. Opening Comments
 - a. Rep. Massey advised members that he can obtain any records, etc. needed for their work from the legislature.
 - b. Amy Burke and Joseph Fawnes from the Office of Attorney General advised that OAG can also be asked to assist the committee in getting what they need, whatever that may be.
 - c. Team discussed and understood that they are responsible for areas surrounding drafting, presentation to judges, and obtainment of search warrant. Those tasks are encompassed under their understanding of “review.”
- IV. Discussion
 - a. Rob Sanders put forth the question of what problems does the committee see now with review of search warrants (hereinafter SWs), or what are some common problems and issues associated with SWs? He gave an example that a problem has been the non-legible judicial signature on the warrants. Chairman Cotthoff offered that he believed that this issue has been resolved, with addition of a new signature line where judges are to print their names. He further offered that an e-search warrant platform would solve this issue.
 - b. Next discussion was brought up by Rob Sanders. He stated that issues have arisen as to whether SWs are reviewed by prosecutors or whether officers go directly to the judge. Members advised by Amy Burke, OAG, that to knowledge and belief search warrants are not reviewed by prosecutors in either Fayette or Jefferson counties. Chairman Cotthoff offered that he did know that Jefferson County did not have prosecutorial review. Joseph Ross indicated that that is why

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this process is good in that it can bring consistency to counties, both small and large.

- c. Next discussion was about “judge shopping,” or officers bringing SWs to certain judges for review and avoiding others. Chairman Cotthoff offered that in his jurisdiction all 5 judges rotate (in post-work-hours events) as reviewing judges.
- d. Next issue was raised by Rep. Massey, who indicated that it makes sense that SWs are tracked in some way. He inquired whether tracking could be performed at the stage of prosecutorial review. There was discussion regarding what occurs at Rob Sanders’ office and how copies are only kept to show that they were transmitted to a judge. This led to larger discussion of what would be needed to effectively track search warrants. Members indicated need for personnel, software and computers, etc. It was asked whether SWs could be tracked through Courtnet. This could not be done as it would leave out all SWs that did not result in a filed court action, and it would be too cumbersome to figure out the number of SWs by using Courtnet.

So members came to the following issue: Where would the resources need to be placed in the reviewing and recording of statistics regarding SWs? Further, where is the logical place or agency to handle this? This led to discussion that ultimately SWs end up in the court clerk’s office. There should be both the judge’s copy and the “returned” copy. Rob Sanders offered that the best place for tracking is the court clerk’s office. There was agreement by other members.

- e. Rep. Massey asked if they should look into what surrounding states do as far as tracking SWs. He indicated this information may be helpful to them. Chairman Cotthoff and Rob Sanders then both gave descriptions of what a “virtual” SW means in terms of how their respective jurisdictions handle these (after work hours). Damon Preston agreed that it would be nice to know what is done beyond our jurisdiction. OAG staff again advised that they can assist in gathering information as needed by the committee.

V. Adjournment

- a. Motion for adjournment. So moved by D. Preston and seconded by Rob Sanders/Ed Massey. Meeting of review committee adjourned.