

SEARCH WARRANT TASK FORCE

Search Warrant Task Force
October 21, 2021
1:00 p.m. ET
Center for Rural Development
2292 US-27 #300
Somerset, Kentucky

Minutes

- I. Meeting Called to Order
 - a. The meeting was called to order by Attorney General Daniel Cameron.
- II. Roll Call
 - a. Members Present: Denise Bentley, Bryan Bogard, Foster Cotthoff, Charles Cunningham, Ed Massey, Ramon McGee, Joe Monroe, David L. Nicholson, Damon Preston, Mike Rogers (proxy for Phillip Burnett Jr.), Joseph Ross, and Walt Sholar.
- III. Opening Comments
 - a. Attorney General Cameron provided opening comments and reminded attendees about the public speaking policy. The Attorney General noted that he would have to leave the meeting early and that Blake Christopher would serve as his proxy.
- IV. Old Business
 - a. Approval of Minutes
 - i. Bogard made a motion to approve the minutes from the September 14, 2021 meeting. Cotthoff seconded the motion. The motion was approved unanimously.
- V. New Business
 - a. Presentation from the Reviewing Committee
 - i. Cotthoff provided an introduction for the Reviewing Committee's presentation. He noted that the committee members would be presenting recommendations that represent their different perspectives.
 - ii. Monroe provided feedback from a law enforcement perspective. He noted that there is currently no formal data for tracking search warrants and no identified procedure for the review of search warrants. He recommended the development of a statewide electronic database to manage the search warrant process. He noted that the database should be field searchable and should be randomly audited. He also stated that Kentucky peace officers should receive training on the use of the new database.

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- iii. Cotthoff provided feedback from a judicial perspective. He noted that judges are neutral magistrates when it comes to search warrants and that prosecutorial review of search warrants prior to contact with a judge is preferable. He also stated that an e-warrant system would streamline the process and make things quicker, easier, and more efficient. He further stated that he does not believe judge shopping is an issue in most jurisdictions.
 - iv. Ross provided feedback from a prosecutorial perspective. He stated that smaller counties need a prosecutor that can be “on call” to review search warrants. He noted that in Logan County law enforcement officers start the search warrant process to help with efficiency and timeliness. He also stated that cell phone connectivity is an issue in some rural communities and that those issues would need to be addressed in an e-warrant system.
 - v. Preston provided feedback from the public advocate’s perspective. He stated that objective data about search warrant practices is essential and that it must not fall exclusively on one body. He also stated that data should be aggregated and be publicly available and searchable. Preston also stated that some searches should be subjected to heightened scrutiny, including residential searches, any searches where children or innocent bystanders may reasonably be expected to be present, any search that may foreseeably create a substantial risk of physical harm or trauma to others in the vicinity of the area searched, and searches to be conducted between the hours of 10 p.m. and 6 a.m. He also stated that in addition to considering whether probable cause exists, a court should consider other factors in determining whether the proposed search and seizure may be unreasonable. He further stated that every jurisdiction should be required to have a procedure to prevent forum shopping.
 - vi. Massey provided feedback from the legislative perspective. He stated that the legislature must not be reactionary and make sweeping changes that would affect many. Instead, he said that all parties must be empowered during this process and that the Task Force should clearly define what is needed and then discuss with the General Assembly how to fund it.
- b. Committee Meetings
 - i. Task Force members broke off into committee meetings. The committees are Securing, Reviewing, and Serving.
 - c. Committee Reports
 - i. The Securing Committee did not provide a report.

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- ii. Cotthoff provided an update for the Reviewing Committee. The committee is interested in developing a list of templates to provide uniformity in the ewarrant process. The committee is also interested in continuing its work once the work of the larger Task Force is complete, either as a working group or as a permanent committee.
 - iii. Bogard provided an update for the Serving Committee. Only two members were able to attend the committee meeting, so no business was decided. The committee is interested in meeting on another date to prepare for the upcoming November presentation.
 - d. Meeting Dates
 - i. Christopher noted that at the last meeting, members requested a discussion about additional meeting dates being added. Members present discussed the possibility of adding a new meeting date after the November 15th meeting. Christopher agreed to send out a poll to members to gauge the best date for the new meeting.
- VI. Public comments
 - a. There were no public comments.
- VII. Ross made a motion to adjourn. Bogard seconded the motion. The motion was approved unanimously.