

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 521
Judiciary

(Delegate Smith, *et al.*)

Judicial Proceedings

Public Safety - SWAT Teams - Reporting and Limitations

This bill requires the Police Training Commission (PTC) to adopt a set of standards for the training and deployment of SWAT teams in the State. Each law enforcement agency must follow the standards adopted by PTC under the bill. The bill also establishes reporting requirements for law enforcement agencies and the Governor's Office of Crime Control and Prevention (GOCCP) relating to deployments of SWAT teams.

Fiscal Summary

State Effect: Assuming a relatively modest number of SWAT team activations and deployments occurring annually, any additional workload can be handled with the existing budgeted resources of GOCCP and PTC, as discussed below. State law enforcement agencies can implement the bill with existing resources.

Local Effect: The bill's requirements can be handled with the existing budgeted resources of local law enforcement agencies with SWAT teams.

Small Business Effect: None.

Analysis

Bill Summary: By April 1, 2017, and by April 1 annually thereafter, a law enforcement agency that maintains a SWAT team must report the following information to GOCCP using a specified format:

- the number of times the SWAT team was deployed by the agency in the previous calendar year;

- the city or town, county, and zip code of the location where the team was deployed for each deployment;
- the specific reasons for each deployment, as specified;
- the legal authority, including type of warrant, if any, for each deployment; and
- the result of each deployment, including (1) the age, gender, and race of any individual detained at the location; (2) the number of arrests made, if any; (3) whether property was seized; (4) whether a forcible entry was made; (5) whether a weapon was discharged by a SWAT team member; (6) whether a weapon was found, used, or discharged by a resident or occupant of the location; (7) whether a person or domestic animal was injured or killed by a SWAT team member; (8) whether a domestic animal was present at the location; and (9) whether a law enforcement officer or K-9 was targeted, assaulted, injured, or killed by a resident or occupant of the location.

PTC, in consultation with GOCCP, must develop a standardized format that each law enforcement agency must use in reporting data to GOCCP under the bill.

GOCCP must analyze and summarize the SWAT team reports and submit a report of the analyses and summaries of the reports to the Governor, the General Assembly, and each law enforcement agency before September 1 of each year.

If a law enforcement agency fails to comply with the reporting provisions, GOCCP must report the noncompliance to PTC. Upon receipt of a noncompliance report, PTC must contact the law enforcement agency and request that the agency comply with the reporting requirements. If the agency fails to comply within 30 days after such a request, GOCCP and PTC must jointly report the noncompliance to the Governor and the Legislative Policy Committee.

Current Law/Background:

Previous SWAT Team Reporting Requirements

Chapters 542 and 543 of 2009 required a law enforcement agency that maintains a SWAT team to report the following information to GOCCP and the appropriate county or municipality, on a biannual basis:

- the number of times the team was activated and deployed by the law enforcement agency in the previous six months;
- the name of the county and/or municipality and zip code of the location where the team was deployed for each activation;

- the reason for each activation and deployment;
- the legal authority, including type of warrant, if any, for each activation and deployment; and
- the result of each activation and deployment, including (1) the number of arrests made, if any; (2) whether property was seized; (3) whether a forcible entry was made; (4) whether a weapon was discharged by a SWAT team member; and (5) whether a person or domestic animal was injured or killed by a team member.

PTC, in consultation with GOCCP, developed a standardized format for the reports. GOCCP analyzed and summarized the biannual reports and submitted a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency by September 1 of each year.

The provisions of Chapters 542 and 543 terminated June 30, 2014. Several bills to extend the termination date failed during the 2013 session.

According to the *Fiscal Year 2014 SWAT Team Data Analysis* report, which was the final report issued by GOCCP pursuant to Chapters 542 and 543, during fiscal 2014, a total of 1,689 SWAT deployments were activated in Maryland, an increase of 2.4% from fiscal 2013. In fiscal 2014, SWAT deployments occurred in all 24 of Maryland's jurisdictions. A total of 35 police departments reported at least one SWAT deployment and activation. Six additional agencies had an active SWAT team but did not make a deployment during the reporting period. All of the remaining law enforcement agencies in Maryland were excluded from the 2014 report because they do not have SWAT teams.

General Police Authority

Under §§ 2-102 and 2-103 of the Criminal Procedure Article, a police officer may make arrests, conduct investigations, and otherwise enforce the laws of the State throughout the State without limitations as to jurisdiction. A police officer may exercise these powers when:

- participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;
- the officer is rendering assistance to another police officer;
- the officer is acting at the request of another police officer or a State Police officer;
or
- an emergency exists.

When exercising these powers, the police officer must act in accordance with regulations adopted by the officer's employing unit and must notify the following persons of an investigation or enforcement action:

- the chief of police, if any, or chief's designee, of Baltimore City, a county, a municipality, a sheriff, or other specified entities, when in such a jurisdiction; and
- the Department of State Police (DSP) barrack commander or commander's designee, unless there is an agreement otherwise with DSP.

Controlled Dangerous Substances

Under §§ 5-801 and 5-802 of the Criminal Law Article, DSP or any law enforcement officer of the Maryland Transportation Authority (MDTA) Police, a municipality, or a county may initiate investigations and enforce the State's controlled dangerous substances provisions throughout the State without regard to any limitation otherwise applicable to DSP's activities in any political subdivision, in accordance with regulations promulgated by DSP. If action is taken under this authority, notification of an investigation or enforcement action must be made:

- to the chief of police or designee of the chief of police of a county or municipality;
- in a county without a police department, to the sheriff or designee of the sheriff;
- in Baltimore City, to the police commissioner or the police commissioner's designee; and
- to the chief of police of MDTA or the chief's designee, when specified.

Immunity from Liability, Search Warrants, and Warrantless Arrests

A police officer acting under any of these authorities has all the immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the police officer is otherwise entitled.

A judge may issue a search warrant whenever it is made to appear to the judge that there is probable cause to believe that (1) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within jurisdiction of the judge or (2) property subject to seizure is on the person or in or on the building, apartment, premises, place, or thing. An application for a search warrant must be in (1) writing; (2) signed and sworn to by the applicant; and (3) accompanied by an affidavit that sets forth the basis for probable cause and contains facts within the personal knowledge of the affiant that there is probable cause. State law does not specifically allow "no-knock" warrants.

A police officer may make a warrantless arrest if the officer has probable cause to believe that the person has committed one of several enumerated crimes and, that unless the person is arrested immediately, the person may not be apprehended, may cause physical injury or property damage to another, or may tamper with, dispose of, or destroy evidence.

State Expenditures: The Department of Public Safety and Correctional Services (DPSCS) advises that PTC does not currently have a system for tracking the information required by the bill. PTC estimates that the initial cost to purchase a system to track the required information is \$320,000, with annual maintenance costs of \$120,000. In addition to the cost to purchase and maintain the system, DPSCS reports a need for one part-time staff to developing the required form and collect the required information. *For illustrative purposes only*, hiring one additional part-time research analyst increases general fund expenditures by approximately \$28,500 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date, and by a minimum of \$32,500 annually thereafter. However, assuming that relatively few SWAT team activations and deployments occur annually, the Department of Legislative Services advises that PTC can handle the bill's requirements with existing resources.

Additional Information

Prior Introductions: SB 173/HB 338 of 2015, similar bills, received hearings in the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively, but no further action was taken on either bill.

Cross File: Although designated as a cross file, SB 589 (Senators Gladden and Muse - Judicial Proceedings) is not identical.

Information Source(s): Harford, Montgomery, Queen Anne's, and St. Mary's counties; Baltimore City; cities of Bowie and Takoma Park; Department of Public Safety and Correctional Services; Governor's Office of Crime Control and Prevention; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2016
kb/lgc Revised - House Third Reader - March 22, 2016

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510