

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1267
Judiciary

(Delegate Valderrama, *et al.*)

Judicial Proceedings

Public Safety - SWAT Team Activation and Deployment - Reports

This bill requires biannual reports of law enforcement “SWAT team” activities to the Governor’s Office of Crime Control and Prevention (GOCCP). A summary of the biannual reports must be prepared each year by GOCCP and submitted to the Governor, the General Assembly, and each law enforcement agency by September 1.

The bill takes effect July 1, 2009, and terminates June 30, 2014.

Fiscal Summary

State Effect: Assuming a relatively modest number of SWAT team activations and deployments occurring annually, any additional workload can be handled with existing resources of GOCCP and the Police Training Commission (PTC).

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: The bill requires that, beginning January 1, 2010, a “law enforcement agency” that maintains a SWAT team report the following information to GOCCP and the appropriate county or municipal governing body, 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, is required to develop a standardized format for the reports. GOCCP is required to analyze and summarize the biannual reports and submit a report of the analyses and summaries 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 required reporting provisions. 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: The following outlines current statutory provisions relating to general police authority and enforcement of controlled dangerous substances.

General Police Authority: (See Criminal Procedure Article, §§ 2-102 and 2-103.)

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: (See Criminal Law Article, §§ 5-801 and 5-802.)

DSP or any law enforcement officer of the Maryland Transportation Authority 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 the Maryland Transportation Authority or the chief's designee, when specified.

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; and remains at all times and for all purposes an employee of the employing unit.

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 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.

Background: In July 2008, members of the Prince George's County Sheriff's Department SWAT team raided the home of the Mayor of the Town of Berwyn Heights in search of a drug-filled package that had been addressed to the residence. Investigations subsequent to the SWAT team raid indicated that the mayor and his family were victims of a smuggling scheme that used FedEx to ship drugs and that they knew nothing about the box intercepted by police. Two dogs belonging to the mayor's family were shot and killed by SWAT team members during the raid.

Additional Information

Prior Introductions: None.

Cross File: SB 447 (Senator Muse, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore City; Caroline, Harford, and Montgomery counties, Office of the Attorney General; Department of State Police; Department of Public Safety and Correctional Services (Police Training Commission); Department of Legislative Services

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