



State of Maryland
Department of State Police
Government Affairs Section
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: January 28, 2021

BILL NUMBER: Senate Bill 419 **Position:** Letter of Information

BILL TITLE: No-Knock Warrants - Elimination

REVIEW AND ANALYSIS:

This legislation seeks to repeal the law authorizing an application for a search warrant to contain a request authorizing the executing law enforcement officer to enter a building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose. This legislation also seeks to repeal the provision of law requiring the Maryland Police Training and Standards Commission to consult and cooperate with commanders of SWAT teams to develop certain standards.

Under current law, a law enforcement officer may request that a search warrant may authorize the executing law enforcement officer to enter the building, apartment, premises, place or thing to be searched without giving notice of the officer's authority or purpose, on the grounds that there is reasonable suspicion to believe that, without the authorization: 1. the property subject to seizure may be destroyed, disposed of, or secreted; or 2. the life or safety of the executing officer or another person may be endangered. This provision of law is based on case law *Richards v. Wisconsin* and upheld by the United States Supreme Court. The Court did however not give unilateral authority for waiving the knock and announce requirement. The Court ruled that the state supreme court's blanket exception to the knock-and-announce requirement, that police officers were never required to knock and announce their presence when executing a search warrant in a felony drug investigation, was unconstitutional. The ruling was affirmed in *United States v. Ramirez*.

The Department makes use of the "No Knock" warrant in very specific circumstances and the warrants are only executed by a highly trained team within the Department. The circumstances that the Department uses to determine if a warrant will be served as a "No Knock":

- o Criminal history of the primary suspect(s);
- o Felony nature of the crime being investigated;
- o Is there an arrest warrant for the primary suspect (is it for a crime of violence);
- o Ability to destroy evidence;
- o Fortification of the structure;
- o Terrain to be traversed to get to the structure;
- o Is a surreptitious approach possible;
- o Are there other articulable reasons why it is necessary to remain unknown to the suspect until the time of the service; and
- o Is it safer for the suspects as well as the officers involved to contact them (Knock and Announce) prior to them realizing we are there.

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All requests for "No Knock" warrants are screened by a member of the Special Operations Division (SOD). Either a team leader or Unit Commander conducts the screening based on the above available information. Once a decision has been made, the SOD Command staff is notified prior to a final decision being made. In all cases, the warrant team is briefed by the local investigators to ensure the most current and useful information is known. For example, investigators on surveillance, contact the lead investigator and advise they observed subjects bringing firearms into the location prior to the execution of the warrant. The team will consider this new most recent information and may upgrade to a "No Knock". Conversely, if the team has a No Knock warrant, and the main target left the location or was taken away by uniform patrol, they will downgrade the "No Knock" to a "Knock and Announce".

The Department acknowledges the risk taken on all search warrants. The use of a "No Knock" warrant is designed and executed to minimize the risk to both the officers serving the warrant and the citizens who are subject to the warrant. The elimination of all "No Knock" warrants would potentially have a detrimental effect on both groups.

Rather than repeal the current law, the Department would propose amending the existing law to require a second review by the local State's Attorney' Office of the county where the warrant is to be served prior to its execution.