



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

POSITION ON PROPOSED LEGISLATION

DATE: March 25, 2021

BILL NUMBER: Senate Bill 419 **Position:** Support

BILL TITLE: Maryland Police Accountability Act of 2021 – Search Warrants

REVIEW AND ANALYSIS:

This legislation seeks to alter 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 restricts the hours of service of search warrants and provides two levels of oversight prior to the service for a no-knock warrant. 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 standards and requires an annual report to be sent to the Governor's Office of Crime Prevention, Youth and Victim Services.

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 was 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

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- 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.

Senate Bill 419 provides that police agencies may still continue to use No-Knock warrants but shall have appropriate approval by the Judge, State's Attorney and a member of the command staff. While the time limits on service can be restricting, the legislation does provide the ability of an applicant to get the Judges approval for service outside the hours specified in the bill. Again, these types of warrants require three levels of review and approval before the service of the search warrant.

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.

For these reasons, the Department urges the Committee to give Senate Bill 419 a favorable report.