



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

**BILL: Senate Bill 340 Criminal Law - False Statements - Emergency or Commission of Crime
(Antiswatting Act of 2023)**

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 02/20/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 340.

From the year 1990 to 2017 there was a 450% increase in the term swatting used in books and media.¹ This spike in use is directly linked to the prevalence of online live streams as well as increased internet access, allowing more people access to others' home addresses and workplaces. As more private, personal information became available about people online, especially famous or political figures, a new form of "prank call" became available, "Swatting". The person who is initiating the "swatting" will call the local law enforcement agencies saying there is a threat of an active shooter and or bomb which needs immediate police attention. This would result in the victim of the call as well as law enforcement being put into a situation of extreme stress and danger as both of them have no idea what is going on. In some high-profile cases such as a 2017 Wichita incident, an argument carried over an online video game chat service between two men led to an innocent third party having the cops sent to his house, which escalated to the man being shot on his front steps.²

¹ https://books.google.com/ngrams/graph?content=swatting%2Cdoxing&year_start=1990&year_end=2019&corpus=26&smoothing=3

² <https://www.cbsnews.com/news/swatting-suspect-tyler-barriss-false-alarm-charge/>

While events such as these illustrate the threat to public safety that these “swatting” cases pose, it also illustrates the ineffectiveness of our proposed legislation. In this scenario, as well as many similar situations, the people who called the swat team to the victim’s house didn’t live in the same state as the victim. If this was to happen in Maryland the Task’s forces proposed bill wouldn’t be able to hold the parties responsible as it would fall under federal jurisdiction.

Ineffectiveness

The bill as currently proposed is ineffective. We already have avenues of prosecution to address issues of swatting. Currently, our laws we have crimes against False statements - To law enforcement officers, False statements - To Public Official Concerning Crime or Hazard, as well as False Statement – Destructive Device or Toxic Material. All three of these laws have clearly established an avenue of prosecution that allows the parties who are responsible for the swatting to be properly held accountable. In cases in which swatters target religious or racial groups, in the form of bomb treats or public safety threats, there are additional laws to hold them accountable. The same can be said to protect students in school.

With all of this current legislation, the only use of this newly proposed bill would be for public perception, rather than effective change. To truly make a difference that would help improve public safety, we should look at more comprehensive approaches such as the one Seattle has implemented. Rather than attempt to deter swatting by adding more laws, which to this point hasn’t been effective, we should focus the task’s force's efforts into training police departments and 911 operators to detect potentially fake calls. The Seattle police department has instilled two such measures that have helped combat swatting against public figures.³ One of the methods is an opt-in program so known public political and celebrity figures can register their addresses so that operators are warned that this might be a potential swatting incident. This has been proven to be a much more effective method to prevent swatting as it acts as an immediate step to provide everyone involved with more crucial information. The dispatcher will still send officers to the scene prepared to deal with an extreme situation but they will be more

³ <https://www.nbcnews.com/news/all/trolls-turned-911-weapon-now-cops-are-fighting-back-n1105991>

prepared on what to expect. Officers who respond to these calls are given more information which leads to a more calm situation.

Protect Kids

One of the major reasons that OPD doesn't support this new legislation is the unintended consequences it will have when it comes to prosecuting kids. In almost all of the high profile swatting incidents, the offense is either an out of state or out of country actor. This would render Senate Bill 340 useless against many actors, except perhaps kids, who would be most likely to be caught acting in state because they would be least likely to be able to thwart investigation.

We already have adequate punishments that hold kids responsible but still acknowledges that they are children, such as for attacks targeting schools, MD Code, Education, § 26-101 Disturbing activities at school or college; molesting or threatening students. By passing this new anti-swatting bill prosecutors are likely to stretch the already shaky swatting definition to include cases like the one mentioned above. This is why the OPD strongly advises that more proactive measures are taken to protect the public from swatting rather than introduce a new law that criminalizes things that are already illegal.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 340.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.