



# MAINE CHIEFS OF POLICE ASSOCIATION

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## Statement Concerning the Use of the Unannounced Execution of Search Warrants a/k/a No-Knock Search Warrants

April 26, 2021

The use of so-called no-knock search warrants has come under increased scrutiny since the tragic death of Breonna Taylor in Louisville, Kentucky, last month.

Member agencies of the Maine Chiefs of Police Association use such warrants only rarely. Law enforcement agencies are reluctant to request permission for such warrants except in cases where the risk of injury or death either to the officers executing the warrant or to innocent persons within or in the immediate vicinity of the premises being entered is deemed likely.

While the use of such warrants is rare, in those cases where they are sought from a magistrate or a judge, we believe they are necessary and should continue to be available. To prohibit their use entirely would likely result in injury or death that might have otherwise been avoided. However, an examination of their use and the circumstances under which a magistrate or judge is likely to grant them is appropriate and certainly within the purview of this committee. Our thoughts on the three bills before you today are as follows.

### L.D. 1043, An Act Concerning the Unannounced Execution of Search Warrants

MCOPA supports L.D. 1043 and thanks Representative McCrea and his co-sponsors for a thoughtful approach to this topic. While police departments generally have written policies on the use of no-knock warrants, we would support having the Board of Trustees of the Maine Criminal Justice Academy promulgate standards for all agencies. Such a structure would also provide an existing forum for enforcement of such standards.

## **L.D. 1127, An Act To Prohibit the Use of "No-knock" Warrants**

MCOPA opposes L.D. 1127 for the reasons stated above. It should be noted that law enforcement will sometimes seek to obtain a search warrant even in those situations that do not require a search warrant. Having a warrant is always the preferred approach.

One dramatic example of a situation where a search warrant may not have been required but which law enforcement nevertheless chose to obtain involved a home invasion early on the morning of March 10 of this year in Livermore Falls.

"Officers arrived on scene and were immediately met with extreme and dangerous conditions which developed into a situation involving multiple hostages," Livermore Falls police Lt. Joseph Sage said.<sup>1</sup> An armed intruder had broken into the home where the father of his ex-girlfriend was present, and the intruder took three persons hostage. The hostages were freed unharmed, but at least one officer did engage in gunfire. However, the medical examiner later ruled that the intruder died of a self-inflicted gunshot wound to the head. Officers also found explosive devices on the premises.

## **L.D. 1171, An Act To Curtail No-knock Warrants**

MCOPA has some concerns about this bill that do not rise to outright opposition; therefore, our position on this bill is Neither For Nor Against. As a general proposition, requiring law enforcement officers to announce their authority to execute a warrant and the purpose for which the warrant was issued is both the right course of action and one that is nearly always followed. The bill attempts to make an allowance for exceptions to this general rule which we appreciate. However, the exception assumes that the issuing authority will have sufficient information on which to determine whether to issue the warrant allowing officers not to make an announcement.

In some situations, the issuing authority may well have such information. For example, if it is known in advance of the search that its subject may be armed and dangerous, the issuing authority could issue the warrant with the appropriate conditions. However, the officers may encounter a situation upon arriving at the premises that the issuing authority could not foresee. Perhaps once at the scene they realize that a hostage is being held inside the premises or they realize for the first time that the subject of the warrant is armed and dangerous. Some allowance for such conditions should be made that would give the officers on the scene some discretion in deciding whether to make the announcement. Some language could be added to the bill that would specify under what circumstances such discretion could be lawfully exercised.

Thank you for the opportunity to share our views on this topic.

<sup>1</sup><https://www.wmtw.com/article/police-respond-to-reported-home-invasion-in-livermore-falls/35766340>