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Testimony of the Maine Municipal Association

In Support Of

LD 1087 – *An Act to Remove Restrictions in the Provisions of Law Relating to No-knock Warrants*

April 27, 2023

Sen. Beebe-Center, Rep. Salisbury and distinguished members of the Criminal Justice and Public Safety Committee, my name is Rebecca Graham, and I am providing testimony, in support of LD 1087, *An Act to Remove Restrictions in the Provisions of Law Relating to No-knock Warrants*, on behalf of the Maine Municipal Association, which represents the interests of municipal government before the Legislature. The positions of the Association are established by our 70-member Legislative Policy Committee (LPC), who are elected by the councils and selectboards of municipalities in each of Maine's 35 Senate districts.

No-knock warrants present significant risks to public and officer safety, privacy, and community trust, and should be used only in rare and targeted circumstances. Officials are deeply invested in maintaining community relationships between their police and the communities they serve. They also recognize that neither municipalities nor legislators are best situated to understand the technical and fact specific ways police operate given the extremely abnormal situations they are required to field daily.

In reviewing policy around such warrants, and forming a position on this bill, municipal officials wanted to understand when and how they are used and what safeguards exist to review their appropriateness and protect the public's constitutional rights.

In general, officials understand that best practices policy has shifted to make sure these warrants are a last resort and only used in very limited circumstances. Absent exigent circumstances, law enforcement officers are permitted to request authorization from the court for a no-knock warrant provision only under the following circumscribed conditions—narrower than what is permitted by law—where (1) knocking and announcing will create a reasonable and particularized concern for officer safety or the safety of another person and (2) a trained tactical team executes the no-knock warrant.

Additionally, this type of warrant must receive a higher level of review by a judge when requesting such a provision, and the warrant is attempted during a reasonable time of day and includes use of appropriate body-worn cameras, and reasonable steps to ascertain information pertaining to potentially vulnerable occupants, including children. To justify a no-knock provision, a law enforcement officer must have a "reasonable, particularized suspicion" that forcible entry is required to prevent the destruction of evidence, to protect officer's safety and to effectuate the arrest or seizure of evidence.

Officials trust the judicial review and authority to evaluate the appropriateness of the circumstances presented by law enforcement officers, feel that trained entry teams are fundamentally required by state-wide policy for their execution thus are very infrequently used. There are anecdotal reports of evidence destruction occurring as a result of the new 20 second waiting period that has caused

additional costs to the community to repair retrieval of the targeted evidence from the plumbing and wastewater systems of the subject property. Often it is the municipality, through their liability insurance, who must repair that damage as frequently the property may not be owned by the subject of the warrant, or knowingly allowing the targeted criminal activity.

For these reasons, officials ask that you support LD 1087 and trust the judicial review process in place, the law enforcement professionals who apply for these provisions often concerned about their own safety from provable threats and allow them to make their case to the subject matter experts with extreme deference to their legitimate need. Officer safety remains the priority for officials in these circumstances, and feel the checks and balances in place are adequate and necessary to prohibit the abuse of tools by those who play by the rule of law to hold those who do not accountable with proportionality.